I52
1985
v.2

PUBLIC HEARING

before

ASSEMBLY CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE

on

Review of State Rules and Regulations Governing Siting
of Community-Based Residential Facilities

VOLUME II

October 16, 1985
Room 348
State House Annex
Trenton, New Jersey

CONTAINS APPENDIX MATERIAL

APPENDIX

	Page
Statement submitted by Acting Commissioner Geoffrey S. Perselay	1x
List of the Department of Human Services' licensed group home and supervised apartment providers supplied by Acting Commissioner Geoffrey S. Perselay	14x
Statement submitted by Assistant Commissioner Richard J. Russo	26x
Residential Community Release Contract Agencies with Department of Corrections	31x
Statement submitted by Councilman Robert Molnar	37x
Testimony of Alfred A. Slocum Acting New Jersey Public Advocate Delivered by Gloria Wright	42x
Photographs of the existing group home at 444 School Street in Woodbridge Township and the house purchased as a group home at 696 East Woodbridge Avenue in Avenel, presented to the Committee by Mr. Ube Cardone on 10/16/85	50x
Statement submitted by Robert Stack	51x
Statement submitted by Janet Grace	52x
Statement and newspaper clipping submitted by Joan Sapienza	53x
Photographs of group homes operated by the Association for Retarded Citizens, Somerset County Unit, presented to the Committee by Ms. Joan Sapienza, Executive Director, on 10/16/85	56x

APPENDIX (continued)

	Page
Statement and attached Fact Sheets submitted by Harry F. Wilkinson	57x
Statement submitted by Karen Spinner	74x
Statement submitted by Walter X. Kalman	77x
Statement submitted by Frank X. Caragher	79x
Position statement and attached materials submitted by John P. Scagnelli	81x
Statement submitted by Carmela Lunt	98x
Letter and newspaper articles submitted by Joan Crawford, Executive Director Association for Retarded Citizens of Hunterdon County	103x
Letter to Assemblyman George J. Otlowski from Richard P. Bonelli, Executive Director Association for Retarded Citizens Bergen-Passaic Unit	106x
Statement submitted by Fran Maher of Warren, New Jersey	108x
Letter and attached complaint sent to Assemblyman George J. Otlowski by E. Robert Levy, Esq. at the request of Union Township's Mayor, Michael Bono	110x
Letter to Assemblyman George J. Otlowski from Rosemarie Seippel, President Our House, Inc.	151x
Certificate of Need Application and Review Process submitted by the New Jersey Department of Health	153x

DHS ACTING COMMISSIONER

GEOFFREY S. PERSELAY'S TESTIMONY

ASSEMBLY, CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE

OCTOBER 16, 1985

THREE YEARS AGO/ THE DEPARTMENT BEGAN FOLLOWING GOVERNOR KEAN'S DIRECTION TO PROVIDE MORE HUMANE CARE FOR ITS CLIENTS.

TO DO THIS/ WE BEGAN A DRAMATIC SHIFT FROM INSTITUTIONAL CARE TOWARD COMMUNITY-BASED CARE.

THE PHILOSOPHY BEHIND THIS MOVE WAS TO GIVE THOSE NEW JERSEY RESIDENTS/ WITH SPECIAL NEEDS/ OPPORTUNITIES TO DEVELOP THEIR POTENTIAL AS HUMAN BEINGS WITH DIGNITY AND INDEPENDENCE.

WE'VE COME A LONG WAY IN JUST A SHORT TIME. THE FIGURES ARE IMPRESSIVE.

FOR EXAMPLE: IN 1978/ THERE WERE ONLY EIGHT GROUP HOMES SERVING MENTALLY RETARDED PEOPLE THROUGHOUT THE STATE. IN THE LAST THREE YEARS/ ABOUT 140 MORE HAVE BEEN OPENED. TODAY/ A TOTAL OF 1200 PEOPLE WITH DEVELOPMENTAL DISABILITIE ARE ENJOYING A BETTER QUALITY OF LIFE IN 170 SUCH HOMES.

WE ARE ALSO SERVING 78 PERCENT MORE MENTALLY ILL PEOPLE IN THE COMMUNITY THAN 10 YEARS AGO/ WHEN INSTITUTIONALIZATION WAS CONSIDERED THE ONLY ANSWER.

THIS PROGRESS HAS NOT BEEN EASY. OPPOSITION HAS BEEN STIFF ON THE LOCAL LEVEL.

RESIDENTS ANGRILY ACCUSED THE STATE OF "MIDNIGHT RAIDS" AND "SNEAK ATTACKS" WHEN THEY LEARNED THAT TROUBLED CHILDREN/DEVELOPMENTALLY DISABLED ADULTS AND PEOPLE RECOVERING FROM MENTAL ILLNESS HAD BEEN LOCATED IN THEIR BACKYARDS.

WITHOUT PRIOR KNOWLEDGE OF OUR PLANS/ MISINFORMED LOCAL OFFICIALS BECAME DISTRUSTFUL AND RESISTANT.

AS ONE TOWNSHIP COUNCILMAN SAID/ "ONCE YOU START WITH ONE/ THEN YOU ARE GOING TO HAVE IT ALL OVER."

IN ANSWER TO THESE CONCERNS/ THE DEPARTMENT OF HUMAN SERVICES BEGAN - IN 1983 - A CONSISTENT POLICY OF NOTIFYING AND MEETING WITH COMMUNITY RESIDENTS AND OFFICIALS ABOUT ITS PLANS.

THIS "GOOD NEIGHBOR" APPROACH HAS HELPED TO DISPEL THE MYTHS THAT SOMETIMES EXIST CONCERNING THOSE WITH SPECIAL NEEDS/ SUCH AS DEVELOPMENTALLY DISABLED CITIZENS.

HOWEVER/ RESENTMENT STILL REMAINS AMONG LOCAL GOVERNMENT OFFICIALS WHO LEGALLY CANNOT ZONE THESE FACILITIES OUT OF THEIR TOWNS.

THESE OFFICIALS REPRESENT CITIZENS WHO ARE AFRAID. THEY FEAR INCREASED CRIME AND DECREASED PROPERTY VALUES.

WHEN GIVEN THE OPPORTUNITY/ WE ARE ABLE TO ELIMINATE THESE FEARS. AT LEAST TWO NATIONALLY RECOGNIZED STUDIES HAVE SHOWN THAT COMMUNITY BASED FACILITIES DO NOT HAVE ANY NEGATIVE IMPACT ON PROPERTY VALUES OR CAUSE CRIME TO INCREASE. IN FACT/ SOME OF THE MOST VOCAL OPPONENTS HAVE BECOME OUR STRONGEST SUPPORTERS ONCE THEY GOT TO KNOW THEIR NEW NEIGHBORS.

ATTITUDES CHANGED AS STRANGERS BECAME FRIENDS.

AS IN THE CASE OF ALISA/ A DEAF CHILD WHO HAD TO GO TO COURT TO WIN THE RIGHT TO ATTEND SCHOOL WITH HER PEERS/ WE FREQUENTLY SEE THAT OTHERS BENEFIT BY ASSOCIATING WITH AND LEARNING FROM THOSE WHO ARE "DIFFERENT".

IN UPHOLDING ALISA'S RIGHT TO A NORMAL EDUCATION/ U.S. DISTRICT COURT JUDGE H. LEE SAROKIN SAID: "WHILE SHE HAS BENEFITTED FROM HER EXPOSURE TO HER PEERS/ THEY HAVE LEARNED COMPASSION/ UNDERSTANDING AND PATIENCE FOR ONE WHO IS DIFFERENT AND LESS FORTUNATE. IT IS DIFFICULT TO ENVISION A LESSON BETTER WORTH LEARNING".

I BELIEVE THAT SUCH EXPERIENCES OPEN THE LINES OF COMMUNICATION AND LEAD TO GREATER UNDERSTANDING. ULTIMATELY/ THEY DISPEL FEAR/ SINCE FEAR IS BASED ON THE UNKNOWN.

THE LOCATION OF EACH FACILITY IS CAREFULLY RESEARCHED AND PLANNED IN THE BEST INTEREST OF OUR CLIENTS/ MANY OF WHOM ARE MEMBERS OF THESE SAME COMMUNITIES. WE/ WHO ARE CHARGED WITH THE RESPONSIBILITY OF HELPING THIS SPECIAL POPULATION/ MUST NOT ALLOW THE CONVENIENCES AND PREFERENCES OF EACH MUNICIPALITY TO OVERRIDE OUR PRUDENT DECISIONS.

BUT WE MUST REALIZE FROM MISTAKES MADE DECADES AGO THAT WE CANNOT "DUMP" PEOPLE INTO THE COMMUNITY WITHOUT NEEDED SUPPORT. THIS WAS RECOGNIZED, LAST YEAR, WITH THE PASSAGE OF SENATE BILL S-81 WHICH PROVIDED SEVEN AND A HALF MILLION DOLLARS FOR COMMUNITY SERVICES FOR THE MENTALLY ILL.

ANOTHER CONCERN WE ARE ADDRESSING TODAY INVOLVES PINPOINTING THE LOCATIC OF EXISTING FACILITIES BEFORE ADDING OTHERS. IT IS ONLY THROUGH SUCH CAREFUL PLANNING THAT WE CAN ESTABLISH A VIABLE SYSTEM OF COMMUNITY CARE.

AND WE MUST ACHIEVE THIS GOAL. FOR WE KNOW THAT COMMUNITY LIVING AND COMMUNITY-BASED SERVICES WORK. WE KNOW THAT CLIENTS THRIVE AND RESPOND BEST IN ENVIRONMENTS THAT ENCOURAGE SELF-SUFFICIENCY.

ONLY LAST WEEK/ I SHARED LUNCH WITH THREE DEVELOPMENTALLY DISABLED CLIENTS WHO ARE NOW EMPLOYED AT TWO RESTAURANTS IN MERCER COUNTY. FOR THE FIRST TIME IN THEIR LIVES THESE INDIVIDUALS HAVE JOBS WITH A FUTURE AND THEY HAVE TAKEN A GIANT STEP TOWARD INDEPENDENCE.

ANOTHER SUCH EXAMPLE IS THE CASE OF A MENTALLY RETARDED MIDDLESEX COUNTY WOMAN WHO HAS LIVED WITH HER PARENTS ALL HER LIFE. WHEN THEY DIE/ SHE FACES THE POSSIBILITY OF BEING INSTITUTIONALIZED - A PROSPECT THAT WOULD DEPRIVE HER OF DIGNITY AND INDEPENDENCE. A GROUP HOME/ IN HER PRESENT NEIGHBORHOOD/ WOULD BE A BETTER ALTERNATIVE.

THESE ARE JUST A FEW OF THE MANY WHO HAVE BENEFITTED BY COMMUNITY PROGRAMS.

IN ADDITION TO BEING MORE HUMANE/ COMMUNITY CARE IS MORE ECONOMICAL. LAST YEAR THE COST OF CARING FOR A DEVELOPMENTALLY DISABLED CLIENT IN THE COMMUNITY WAS ABOUT $24,000 ANNUALLY/ WHILE THE COST TO CARE FOR A SIMILAR INDIVIDUAL IN AN INSTITUTION WAS $47,000 - NEARLY TWICE AS MUCH.

THIS DRAMATIC DIFFERENCE IS REPEATED IN THE COST OF CARE FOR MENTALLY ILL PEOPLE/ WITH COMMUNITY CARE COSTING ABOUT $25,000 PER YEAR AND INSTITUTIONAL CARE TOTALING NEARLY $40,000.

WE ARE WELL ON THE ROAD TO ACHIEVING OUR GOALS FOR THOSE VULNERABLE PEOPLE WHO ARE ENTRUSTED TO THE STATE FOR CARE. AND I FIRMLY BELIEVE IT IS THE RIGHT ROAD. BUT/ TO CONTINUE IN THIS DIRECTION/ WE MUST COMBAT A LACK OF KNOWLEDGE.

HOWEVER/ WE CANNOT DO THIS ALONE.

WE NEED TO BUILD A BRIDGE OF UNDERSTANDING.

THIS BRIDGE MUST LINK ELECTED OFFICIALS WITH AGENCIES DIRECTED TO ADVOCATE FOR THE MENTALLY HANDICAPPED.

THIS BRIDGE MUST BE BUILT ON SOUND PROGRAMS AND SOLID INFORMATION.

AND IT MUST BE A BRIDGE WHICH WILL WITHSTAND UNFOUNDED ATTACKS.

OUR ROLE IS CLEAR.

OUR OBLIGATION IS TO EDUCATE/ TO INFORM AND TO FURTHER ADVANCE THE GOALS SHARED BY SO MANY.

I ASK YOU TODAY TO JOIN ME IN MEETING THIS CHALLENGE.

State of New Jersey
DEPARTMENT OF HUMAN SERVICES
CAPITAL PLACE ONE
222 SOUTH WARREN STREET
TRENTON, NEW JERSEY 08625

GEOFFREY S. PERSELAY
Acting Commissioner

October 31, 1985

Honorable George J. Otlowski
Assemblyman, District 19
174 Jefferson Street
Perth Amboy, New Jersey 08861

Dear Assemblyman Otlowski:

Thank you for the opportunity to address your Committee regarding our State community-based residential facilities.

I also want to express my personal appreciation for your continued interest in Department of Human Services' initiatives. I share your commitment to continue efforts that will provide opportunities for New Jersey's citizens with special needs. These community homes, as evidenced through testimony at the October 16, 1985 hearing, do indeed encourage greater independence while providing a better quality of life for the residents.

Pursuant to your request, I am enclosing a list of the Department's licensed group home and supervised apartment providers. The list designates providers by county, address, number of clients, whether capital funding was provided (yes or no), and the date of licensure.

If I can be of further assistance, please do not hesitate to contact me.

With best wishes,

Sincerely,

Geoffrey S. Perselay
Acting Commissioner

GSP:13
c. David Price

14X

COUNTY AGENCY LIST

ATLANTIC

Vineland Parents	308 E. Pacific Ave Minotola, NJ	6	Yes	4/85
Caring, Inc.	350 Chestnut Neck Rd. Port Republic, NJ	7	Yes	12/80
Caring Inc.	201 W. White Horse Pike Pomona, NJ	6	Yes	4/85
Atlantic ARC	Weiler Lane Absecon, NJ	6	Yes	
Atlantic ARC	1159 N. Main St. Pleasantville, NJ	6	Yes	1/81
Atlantic ARC	Odessa Ave. Pomona, NJ	6	Yes	6/85
American Inst. Trng. School at Vineland	15th St. New Jersey Ave Dorothy, NJ	8	Yes	1/85
Residential Home	188 a Old Zion Road Bargaintown, NJ	8	Yes	9/85

BERGEN

Benjamin Barbarosh Indp. Living Ctr.	360 E. Ridgewood Paramus, NJ	7	Yes	3/85
Bergen/Passaic ARC	279 Lookout Ave. Hackensack, NJ	6	Yes	8/80
Bergen/Passaic ARC	0-07 Saddle River Rd. Fairlawn, NJ	6	Yes	6/82
Bergen/Passaic ARC	231 Hillside Ave. Teaneck, NJ	6	Yes	7/82

Burlington

Kelsch	329 Tom Brown Rd. Moorestown, NJ	6	Yes	6/82
Kelsch SA	Yorkshire Arms Apts. E1,E3,D5,E7 Box 3087 Burlington, NJ	9	No	3/82
Kelsch	2305 Lenola Rd. Cinnaminson, NJ	7	Yes	6/82
Kelsch	13 Yansick Dr. Delran, NJ	6	Yes	12/81

Burlington ARC	Sooy Place rd. Burlington, NJ	6	Yes	4/85
Delaware House	8 Sunset Rd. Burlington, NJ	6	Yes	5/82
Burlington ARC	120 S. Pemberton Rd. Pemberton, NJ	6	Yes	1/85
Burlington ARC	1512 Marne Hwy Hainesport, NJ	6	Yes	6/82
ADEPT SA	Chateau Apt. #531 10 Etoille Ct. 332 Cannes Ct. 621 Francois Ct. 434 Dominique Ct. 927 Ivorie Ct. Burlington, NJ 08016 (2 per unit)	12	No	4/82

CAMDEN

Kelsch SA	Coachman East Apts. 5302,5313,5414,5411 Gibbsboro Rd. Lindenwold, NJ (2 per apt.)	8	No	3/82
Kelsch	3080 Davis Rd. Runnemede, NJ	8	Yes	8/81
Kelsch SA	Waterford Apts. Park Blvd. Cherry Hill, NJ (2 per 4 units)	8	No	10/80
Hopwell Inc.	353 Blackwood Clementon Road Lindenwold, NJ	8	No	10/80
Kelsch SA	Countryside Apts. Blackwood, NJ	8	No	1/81
Kelsch SA	Chapel Manor Apts. Cooper Landing Cherry Hill, NJ (2 per four units)	8	No	9/80
Kelsch	1212 Cotswold Lane Cherry Hill, NJ	7	Yes	2/81
Bancroft School	407 Cranford Rd. Cherry Hill, NJ	7	Yes	12/82

Bancroft SA	Sutton Towers, Apts. 102C,205C,605C, 702C White Horse Pike Collingswood, NJ	8	No	2/82
Kelsch Assoc.	4 Blatherwick Dr. Berlin, NJ	6	Yes	6/81
Alpha/Omega	PO Box 117 New Brooklyn Rd. CedarBrook, NJ	8	Yes	10/80
Bancroft School	1214 S. Park Ave. Haddon Heights, NJ	6	Yes	11/82

CAPE MAY

Cape May ARC SA	Channel Apts. H13,A15,B12,I11,C5, 3910 Bayshore Rd. No. Cape May, NJ	12	Yes	12/84
Cape May ARC	Rt. 47 Delsea Dr. Goshen, NJ	6	Yes	9/79
Jerome Brown	4100 Park Blvd. Wildwood, NJ	8	No	6/80
Cape May ARC	602 Shun Pke Rd. Erma, NJ	7	Yes	6/82
Cape May ARC	9 West Secluded Lane Rio Grande, NJ	6	Yes	3/84

CUMBERLAND

Vineland Parents	1032 Arbor Ave., Vineland, NJ	8	Yes	5/84
Vineland Parents	1170 Chimes Tr Vineland, NJ	8	Yes	8/83
Vineland Parents	903 E. Park Ave. Vineland, NJ	8	Yes	8/82
Vineland Parents	133 N. Brewster Vineland, NN	8	Yes	4/85
Vineland Parents	**1032 Arbor Ave,. Vineland, NJ**	**8**	**Yes**	**5/84**

ESSEX

Seventh Day SA	Shalom-Clemente towers Newark, nJ	8	NO	6/82
Seventh Day	60 Midland Ave. East Orange, NJ	5		9/83
Essex ARC SA	539 Mt. Prospect Ave Apt 1-2 Newark, NJ	8	Yes	6/82
Essex ARC	17 Romano St. Nutley, NJ	6	Yes	7/82
Essex ARC	24 Clarendon Pl. Bloomfield NJ	8	Yes	9/80
Essex ARC SA	87 Forest 123 Walnut Montclair, NJ	12	2/28	
Essex ARC	10 Blemont Dr. Livingston, NJ	6	yes	6/82
Essex ARC SA	Crisis Intervention 365 Highland Ave. Orange, NJ	8	Yes	11/80
Essex ARC	44 Maple Ave. Belleville, NJ	8	Yes	7/82
Essex ARC	4 Wedgewood Drive W. Orange, NJ	6	Yes	11/83

GLOUCESTER

Kelsch SA	Delsea Woods Apts Bldg. E1,2,3,4 Rt. 47 Delsea Dr. Westville, NJ	8	No	7/81
Gloucester ARC	40 Hessian Ave. Woodbury, NJ	8+1	No	3/73
Gloucester ARC	7 N. Evergreen Ave. Woodbury, NJ	8	Yes	12/80
Gloucester ARC	7 Crafton Pitman, NJ	8+1	Yes	5/82
Gloucester ARC	32 Redding St. Glassboro, NJ	6	No	5/85

Archway Prog	RD s Box 15 Jackson Rd. Monroe Twp, NJ	6	Yes	6/84
Gloucester ARC	309 Lincoln Ave. Woodbury Hgts, NJ	6	Yes	5/82
HUDSON				
DDANJ	313-315 Davis Ave. Harrison NJ	6	Yes	10/81
Hudson ARC	59 Clinton Ave. Kearny, NJ	6	Yes	4/85
Hudson ARC	9000 Newkirk Ave. North Bergen, NJ	6	Yes	9/84
HUNTERDON				
DRC	Cherryville Stanton Rd. Raritan Twp, NJ	6	Yes	6/82
Eden ACRES W.Amville	Rock Road East Lambertville, NJ	6	Yes	9/83
Hunterdon ARC	134 Leigh St. Clinton, N J	6	Yes	9/80
Hunterdon ARC	Rosemont Ringoes Rd. PO Box 76 Sergentsville, NJ	7	No HUD	6/82
Hunterdon ARC	383 John Lelo Ave Milford, NJ	6	Yes	11/84
MERCER				
Mercer SA	196 Rt. 156 1,2,3,4,5 Yardville, NJ	6	NO (HUD)	1/83
Mercer ARC	514 Parkway Ave. Trenton, NJ	6	Yes	4/80
Eden ACRES	215 Sharon Rd Robbinsville, NJ	6	Yes	1/83

Mercer ARC	105 Buttonwood Dr. 1,2,3,4,5 Ewing Twp. NJ	7	No (HUD)	10/81
Mercer ARC	608 Greenwood Ave Trenton, NJ	7	No (HUD)	3/82
Mercer ARC	1330 Cedar Lane Trenton, NJ	7	No (HUD)	12/81

MIDDLESEX

Lutheran Soc Services	49 Freedom Ave. Piscataway, NJ	7	Yes	5/85
Eliz. Rosania	7 Venice Ave. Middlesex, NJ	7+1	Yes	3/81
DRC	444 School St. Woodbridge, Nj	6	Yes	11/80
DDANJ	330 Washington Place N. Brunswick, NJ	6	Yes	8/82
DDANJ	20 Roanoke Rd. Old Bridge, NJ	6	Yes	8/82
DRC SA	153-183 Pleasant View Apts. Rutgers Road Piscataway, NJ	6	No	9/80
DDANJ	312 Summerhill Rd. E. Brunswick, NJ	6	Yes	7/82
CP Assoc. Middlesex	Oak Dr. Roosevelt Pk. Edison ,NJ	8	Yes	12/82
AAMH SA	Hilltop Apts. 51A, 45B Oak Tree Rd. Edison, NJ	6	No	6/82
CP Assoc. Middlesex	785 New Dover Rd. Edison, NJ	6	Yes	11/81

MONMOUTH

Claire Miller	5208 Megill Road Wall Twp., NJ	12	No	6/80
Monmouth ARC	96 Third St. Long Branch, NJ	6	Yes	3/80
Monmouth ARC	1 Alexandria Drive Manalapan, NJ	6	Yes	4/85
Monmouth ARC	93 E. Main St. Freehold, NJ	6	Yes	4/85
Monmouth ARC	929 Broad St. Shrewsbury, NJ	6	Yes	3/80
Monmouth ARC	Columbia Manor 1150 Wayside Tinton Falls, NJ	12	No (HUD)	12/80
Monmouth ARC	Virginia Manor 1150 Wayside Tinton Falls, NJ	12	No (HUD)	12/80
Childrens Psy. Center	1 Millstone Rd. Millstone, NJ	6	Yes	8/84
Dev. Serv Assoc. Howell	PO Box 372A Farmingdale, NJ	5	Yes	5/85
Search	302-B Robertsville Rd. Freehold, NJ	6 (5+1)	Yes	3/81
DSA	112 Medford Blvd. Freehold, NJ	5	No	2/81

MORRIS

Paterson Diocese	Weldon Rd. Jefferson Twp. Oakridge, NJ	10	No	10/77
Paterson	Columbus House Weldon Rd. Milton, NJ Weigand Farm 1	8	Yes	3/81

Paterson	Camp Alexander Weldon Rd. Milton, NJ Weigand Farm 2	8	Yes	11/80
Morris ARC	21 Longview Dr. Hanover Twp.	6	Yes	7/84
Morris ARC	143 Hiawatha Blvd. Lake Hiawatha, NJ	6	Yes	11/83
Morris ARC	1 Leonard Place Rockaway, NJ	6	Yes	3/80
Morris ARC	14 Beech Drive Morris Plains, NJ	6	Yes	6/85
Morris ARC	30 Maxine Convent Station, NJ	6	Yes	7/85
CHC	152 Mountain Rd. Flanders, NJ	6	Yes	6/82
CHC	20 Birchwood Ave. Washington, NJ	6	Yes	2/85
CHC	883 Miller Road Denville, NJ	6	Yes	7/82
Green Acres (Kerr)	410 Cornelia St. Boontown, NJ	12	No	3/81

OCEAN

21+	1857 Old Freehold Rd. Toms River, NJ (Respite)	8+1	Yes	8/83
Ocean	592 Duquesne Blvd. Bricktown, NJ	6	Yes	3/80
Ocean ARC	2127 Church Rd. Toms River, NJ	6	Yes	10/81
Ocean ARC	1620 Burrsville Rd. Bricktown, Nj	6	Yes	2/85
AMIB	455 Muller Ave. Bayville, NJ	8	No	6/82
AMIB	2240 Church Rd. Toms River, NJ	8	Yes	6/84
DSA	983 East End Ave. Lakewood, NJ	5	Yes	5/82
Comm. Living Autistic	Rt. 528-BX 214D Plumstead, NJ	6	Yes	1/85

DSA	2417 Chestnut Rd. Pt. Pleasant, NJ	4	No	11/80
PASSAIC				
Bergen/Passaic	154 Lexington Ave. Passaic, NJ	6	Yes	1/82
Paterson	389 Main St. Paterson, NJ	10	No	2/72
Paterson	648 Black Ridge Rd. Wayne, NJ	10	No	10/77
CHC	42 Van Houton Passaic, NJ	6	Yes	6/85
SALEM				
Salem ARC	74 West Broadway Salem, NJ	5	Yes	12/84
Vineland Parents	Morton Ave. Pittsgrove, NJ	8	Yes	12/84
SOMERSET				
Somerset ARC	921 Rt. 202S Somerville, NJ	5	No	2/79
Somerset ARC	503 Warrenville Rd. Warren, NJ	7	Yes	5/82
AAMH Somerset SA	Bridgewater Park Ter. Apt. 5A, 3C Fulton St. (3 per apt) Bridgewater, NJ	6	NO	3/81
Somerset ARC	37 Buffa Dr. Franklin Twp, NJ	7	Yes	10/84
Somerset ARC	1159 Cambridge Lane Bridgewater, NJ	6	Yes	3/80
Somerset ARC	193 Glencrest Dr. Branchburg, NJ	6	Yes	8/81
DRC	3 Estel Place Greenbrook, NJ	6	Yes	7/82
DRC	636 Metape West BoundBrook, NJ	6	Yes	6/82
DDANJ	7 Evans Ct. Franklin Twp, NJ	5	Yes	8/82

AAMH Union SA	Monroe Garden Apts. 3604,3301,2601,1604 1550 Schley St. Hillside, NJ	9	No	6/82
AAMH SA	Park Plaza Apts. 20,29,46,58 Newman Place Roselle, NJ	7	No	4/81
Union ARC	136 Horseshoe Rd. Berkeley Hgts. NJ respite	5	No	1/83
Union ARC	1052 Plainfield Avbe. Berkeley Hgts, NJ	5	No	10/75
Union ARC	50 North Ave. Fanwood, NJ	6	No	6/77
Union Arc	147 E. 5th Ave. Roselle, NJ	8	NO (HUD)	5/82
Union ARC	936 Terrill Rd. Scotch Plain, NJ	8	No	6/77
Union ARC	478 Poets Place Westfield, NJ	5	Yes	7/82
Our House Inc.	5 Maple Ave. Berkeley Hgts, NJ	5	Yes	4/81
Our House	6 Greenwood Dr. Millington, NJ	6	Yes	7/82
Our House	32 Pine Way New Providence NJ	6	Yes	7/82
Our House	1 Greenfield Ave. Summitt, NJ	6	Yes	3/81
AAMH SA Union	35 East Price St. 7,9,17 Linden, NJ (3 per)	5	No	5/82

WARREN

Jessie Skorets	626 Tunnel Rd. Oxford, NJ	12	No	3/80
AAMH SA	South Gate Apts. E3,A1,D5 Arrowhead Court Phillipsburg, NJ	6	NO	5/82
CHC	9 Winding Way White Twp, NJ	6	Yes	6/82
Warren ARC	Asbury Anderson Rd. Box 941 Asbury, NJ	6	Yes	6/82
Warren Arc	843 Hopatcong Rd. Belvedere, NJ	6	Yes	6/84

ASSEMBLY CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE

PUBLIC HEARING

TO REVIEW STATE RULES AND REGULATIONS GOVERNING THE SITING OF GROUP HOMES AND OTHER COMMUNITY-BASED RESIDENTIAL FACILITIES

Wednesday, October 16, 1985
State House Annex
Trenton, New Jersey

TESTIMONY PRESENTED BY:

Richard J. Russo, Assistant Commissioner
Alcohol, Narcotic and Drug Abuse
New Jersey State Department of Health

On behalf of Dr. J. Richard Goldstein, Commissioner of Health, I am most pleased to present testimony on the siting of community-based residential facilities under our jurisdiction.

Pursuant to N.J.S.A. 26:2H-1, et seq. (1971 Health Facilities Planning Act), and other relevant legislation, all health care facilities as defined by the reference statutes must comply with the Certificate of Need process.

"Alcoholism services" which are defined as health care facilities and therefore require a Certificate of Need are:

1. Outpatient services: The provision of scheduled, or non-scheduled, non-residential diagnostic and primary alcoholism treatment services by a detoxification, residential treatment center or a hospital.

2. Residential treatment: The provision of an intermediate term (28 days average) therapeutic residential program of comprehensive structured alcoholism treatment services, medical support and a wide range of supportive services for detoxified individuals.

3. Detoxification service: The provision of short-term (two to seven days) residential care and service for the reception and observation of intoxicated persons; the detoxification of intoxicated persons; the counseling of alcoholics to motivate their further treatment, and the referral of detoxified persons to appropriate treatment programs for continued care.

"Drug abuse services" which are defined as health care facilities and therefore require a Certificate of Need are:

1. Detoxification: The modality in which there is planned withdrawal from drug dependency supported by use of prescribed medication.

2. Maintenance: The modality in which methadone and/or any of its derivative is administered over a long period of time in order to either maintain patients at a stable degree or, by slow reduction of the dosage, achieve a drug-free state.

3. Drug-free residential: The modality that does not include any chemical agent or medication as the primary part of drug treatment but where the client resides in a drug abuse treatment unit other than a prison or hospital.

4. Drug-free outpatient (including day care): The modality that does not include any chemical agent or medication as the primary part of the drug treatment. The client resides outside the clinic but attends the clinic or participates in drug abuse treatment programs.

Pursuant to the following Certificate of Need rules and regulations, N.J.A.C. 8:33-2.4 which mandates "notification to affected persons"; and N.J.A.C. 8:33-2.9 which describes "functions of health care agencies", we in the Department of Health believe all concerned New Jersey citizens are adequately notified regarding the siting of alcohol and drug abuse community-based residential facilities under our jurisdiction.

8:33-2.4 Notification to affected persons

(a) The Department of Health shall submit written notification to the health systems agency for the health service area in which the proposed project is to be offered or developed and health systems agencies serving contiguous health systems areas, of the beginning of a review and the proposed schedule for the review. Notification to members of the public will be provided through newspapers of general circulation.

(b) The health systems agencies shall submit written notification to affected persons of the period within which a public hearing during the course of the health systems agency review may be requested by persons directly affected by the review, and of the manner in which notification will be provided of the time and place of any public hearing so requested. Written notification to members of the public and third party payors may be provided through newspapers of general circulation and public information channels; notification to all other affected persons must be by mail (which may be as part of a newsletter).

8:33-2.9 Functions of health systems agencies

(a) Each health systems agency shall have as its primary responsibility the provision of effective health planning for its health service area and the promotion of the development within the area of health services, manpower, and facilities which meet identified needs, reduce documented inefficiencies, and implement the health plans of the agency. Proposed projects must be reviewed and recommendations developed in conformity with the health systems plan and annual implementation plan of the agency. Recommendations need not be based solely on policies established by the State or the Commissioner of Health since this would remove the consideration of areawide or local needs or circumstances from the review process.

(b) The specific responsibilities or activities expected of health systems agencies are:

1. Assistance to sponsor in the completion of appropriate application forms;

2. Written notification to affected persons of the beginning of a review, which shall include notification of the proposed schedule for the review, of the period within which a public hearing may be requested by persons directly affected by the review, and of the manner in which notification will be provided of the time and place of any hearing so requested;

3. Provision for public hearing in the course of agency review if requested by one or more persons directly affected by the review;

4. Evaluation of the public need for each proposal with general consideration given to the items specified in the criteria for state agency review (N.J.A.C. 8:33-2.7);

5. Provision for written findings which state the basis for any decision or recommendation made by the health systems agency. Such findings must include the items specified in the required findings on access (N.J.A.C. 8:33-2.8);

6. Evaluation of the public need for each proposal with special consideration given to:

i. The conformity of the proposal with locally developed criteria and guidelines for planning health facilities, including conformity to local zoning requirements;

ii. The unique population characteristics of the service area involved, considering how it might affect the local demand for services including:

(1) The age-sex composition of the population;

(2) Changes in the population;

(3) The educational/employment level of the population;

(4) The population density and housing pattern of the area;

(5) Factors affecting travel and travel time in the area.

iii. The unique economic characteristics of the service area involved, vis-a-vis the proposal, including:

(1) The availability of disposable income;

(2) The availability of third party payment mechanisms;

(3) The availability of alternate service programs;

(4) The availability of health manpower to provide services;

(5) The proportion of the population which is medically indigent.

(c) The following activities are not the responsibility of the health systems agencies:

1. Involvement in architectural plans review of approved projects;

2. Construction monitoring of approved projects.

(d) The following activities are not the primary responsibility of the health systems agencies:

1. Evaluating the character and competence of the sponsor(s) based upon State licensure, survey records, or other information of State regulatory agencies;

2. Evaluating the financial competence of the sponsor(s) and the feasibility of the proposal based upon the records of the Health Economics Program of the Division of Health Planning and Resources Development.

(e) Appropriate comments may be made, should the health systems agencies, upon completion of their primary responsibility have the capacity and the time for such comments.

10-15-85

Residential Community Release Contract Agencies with Department of Corrections

Halfway Houses:

New Jersey Association on Correction - Jim Hemm, Exec. Director

Clinton House
21 North Clinton Avenue
Trenton, New Jersey
609-396-9186
per diem - $39.
DOC Capacity - 28
Total capacity - same

Bates House
33 Remsen Avenue
New Brunswick, N.J.
201-846-7220
per diem - $39.
DOC Capacity - 16 co-ed
Total capacity - same

Volunteers of America - Delaware Valley Branch

Don Dudley - Executive Director

Maude Booth Facility
517 Cooper Street
Camden, N.J.
609-964-5100
per diem - $39.
DOC Capacity - 46 male - 10 female
total capacity - same

Integrity Inc. - Dave Kerr, President

Pyramid House II
101 Lincoln Park
Newark, N.J.
201-623-1446
per diem - $39.
DOC Capacity - 15
Total Capacity - same

Volunteers of America - Greater N.Y./Northern N.J. area

Aurelia Watson, Area Administrator

Transitional Living Center
421 Westminister Avenue
Elizabeth, N.J.
201-351-2244
per diem - $45.- 1-10 residents
$39.- over 10 residents
DOC Capacity - 10
can increase to 25

Drug Programs:

Center for Addictive Diseases - Michael DeFilippo, Administrative Director

Turning Point
Blackwood P.O.
Lakeland, N.J.
609-228-4200
per diem - $41.95
DOC Capacity 16
total capacity 30

C.U.R.A. Inc. Oswaldo Fierro, Executive Director

61 & 75 Lincoln Park
Newark, N.J.
201-622-3570
per diem - $40.
DOC Capacity 15 (Corrections)
Total capacity - 64

All of the above contracts are with private non-profit agencies, with the exception of Turning Point which is operated by Camden County and is a public non-profit organization. When negotiating a contract for a halfway house the D.O.C. requires that the facility meets the following requirements:

1. Department of Community Affairs licensing Rooming & Boarding House.

   The Rooming & Boarding House type facility is sought to promote a non-institutional environment in preparation for returning home. This family-type environment also promotes the sense of responsibility for caring for the house, the other residents as well as themselves (i.e. house chores, actions of other residents that affect the entire household etc.)

2. Facility location in close proximity to public transportation.

3. Availability of employment and education opportunities.

4. Geographic location - facility must be located in a county with a high percentage of commitments to the D.O.C. The objective of the program is to provide assistance in the community close to where the inmate will be paroled so that employment and family contacts made during community release can be continued while on parole.

5. Other requirements as outlined in the application package

ADVANTAGES

1. Re-integration to the community.

An advantage of contracting with private non-profit agencies is to prepare the inmate for his release upon parole. (These pre-release inmates must meet the specific criteria for this program and have been approved by the Institutional Classification Committee and the Central Office Review Committee.) The services offered by the contract agency helps to reduce the recidivism rate since the inmate has had the opportunity to receive therapy and maintain employment prior to his release on parole.

2. Cost-effective

Another advantage of contracting with private non-profit agencies has been the cost effectiveness of providing effective programing at low cost to the Department. However, in order to maintain the low per diem rate and maintain the quality of services currently mandated in the contract, a minimum facility size would be 25 residents. (The facilities now operating with a capacity lower than 25 either have other referral sources, i.e. courts, county, federal, or have more than one facility under contract with the Department.

General Program Rules and Regulations

1. All inmates who are approved by the institution's Classification Committee, DOC Central Office and the Community Agency must sign an application which states that they will abide by the program rules and regulations. Although the rules and regulations vary slightly according to the individual program, all participants must follow these general rules:

a. Obtain employment or be enrolled in an education program within 30 days of transfer.

b. Participate in specialized counseling of at least 60 minutes per week as stipulated by DOC or the agency. This counseling can be provided thru outpatient services or in house consultants or staff, and must be provided by a certified counselor in the following areas:

1) substance abuse
2) mental health
3) gamblers anonymous
4) parenting skills
5) basic education skills

c. Each resident must develop a program treatment plan which addresses the goals and objectives of the resident with weekly assessment of progress on meeting objectives. Minimal objectives must include:

1) obtaining employment, establishing short and long term employment plans.
2) establishing a savings account and budget plan.
3) re-establishing family or community ties (furloughs and family counseling).
4) attending stipulated counseling; substance abuse, mental health, etc.

OTHERS INCLUDE:

5) volunteering 2 hrs. per week at non-profit agency.
6) obtaining driver's license.
7) paying fines, penalties or restitution.
8) paying child support
9) other-as resident need indicates.

d. Pay maintenance fee of 15% of gross salary (minus first $50) These monies are put back into the Purchase of Services budget to purchase additional bedspace (Maintenance fees paid FY85 - $64,865)

e. All residents must submit to urine monitoring following guidelines in Standard 172.9.

f. All residents must follow an accountability procedure which includes staff knowing the residents whereabouts at all times. Frequent phone contacts to the facility to notify the agency staff of the resident's whereabouts or seek permission to change location. Any unaccounted for absence in excess of 2 hours is considered an escape.

g. Meet with agency counselor/case manager at least bi-weekly and attend weekly house meetings.

h. Adhere to all curfews depending on phase in program.

i. All programs have a phase system which increases privileges as objectives are met, or decreases privileges for minor rule infractions. Major infractions require return to the institution with disciplinary charges.

An example of what can be offered at a community release program at low cost to the Department if the facility can house 25 or more, is the Volunteers of America program in Camden which offers the following services:

Intensive drug counseling component. Approximately 80% of all DOC referrals have some type of substance abuse history. Therefore, VOA has 3 drug counselors that provide various levels of drug counseling as follows:

1. drug education - awareness of what effects drugs have on the body.

2. group therapy - heavy substance use with low motivation.

3. social coping group - highly motivated to abstinence from drugs.

Other counseling:

1. weekly counseling sessions by individual case manager.
2. family counseling
3. self awareness groups
4. spiritual awareness groups.

Job developer

1. conducts classes for unemployed residents regarding proper methods of approaching employer, proper dress, resume writing, etc.
2. referrals to job sites or employment agencies.
3. weekly contact with the employer to evaluate job performance and punctuality.

Education - In-house

Computer - Plato education system which includes diagnostic testing and basic math and reading skills. Residents using this system can advance several grade levels in a few months.

Special Needs - Capabilities in addressing special needs cases such as one inmate who was in prison over 40 years was afraid to be paroled. Recently evaluation shows considerable improvement after several months at VOA. VOA has also assisted several parolees, without compensation, who had specialized needs.

Computerized telephone system, Tel-stal, which is utilized by VOA for accountability purposes. This system is programmed to contact the residents at their furlough sites and in turn requires the resident to leave a message. VOA staff then follows up and does verification. This has proven to be a very effective method in providing resident accountability while in the community.

Good Morning Ladies and Gentlemen:

My Name is Councilman Robert Molnar, representing the Third Ward of Wodbridge Township.

I would like on the outset to thank Chairman George Otlowski and the Correctional Health and Human Services Committee for the opportunity to address to you my concerns over the siting of group homes.

Most recently in my community, the Avenel section of Woodbridge Township, the citizens of this area were informed that a group home was to be located in their neighborhood. Neither the Township, nor the State, nor any official government agency had taken the time to inform these citizens of the nature or purpose of this home.

Simply put, the process by which we determine the siting of group homes is procedurally deficient. While administrative regulations may guide various agencies in the establishment of group homes, they have failed to consider the process of

public notification and response in their formulation. I understand that under present administration regulations the public need not be informed when a group home is to be sited in their community if six (6) or less persons are to be housed in that facility. In the instant case, the proposed home involved six persons and as such the community citizens were not publicly informed.

Although the Mayor received information regarding the pending siting of this group home significantly prior to this date, he failed to notify the general public of this development.

The difficulties in establishing group homes are many. While I am sensitive to the serious needs of our mentally and developmental disabled, as well as to former inmates and all those who need a second chance; as a Councilman, my primary concern must be to the constituents whom I represent. While it may be sound public policy to make a strong effort to house the disenfranchised, we must do so in a manner which neither offends nor disrupts the lives of the general community.

When the rumors and incomplete information of this siting began to circulate, the local citizens contacted me. As Councilman, I was the first line of defense

and the first person readily available to be contacted. When as a local government representative, I myself have not been informed of a group home siting, there is an evident problem. To have government function properly, officials on the local level must and should be informed of decision-making which impacts on their constituents. The citizens of the 3rd Ward, unfortunately, do not know the Commissioners who spoke here today. Their only access to government is through local officials.

While I recognize the need for group homes, we must come to the process of siting in a different manner. I have taken the time to discuss these concerns with the Association of Retarded Citizens. I make it plain that I fully understand and appreciate the need for group homes for special individuals but I also fully demand that changes be made in the existing siting procedure. Simply put, here are my recommendations.

1. The siting procedure for all state agencies involved with group homes should be uniform. Now they are not.

2. The community should be notified that a state agency is planning to site a group home regardless of the number of residents to be housed.

3. Community input should be obtained before any final decision is made by the state. Input can be received in the form of formal or informal hearings or meetings to be held in the community or neighborhood affected. This would give the state an opportunity to reach the grass roots level of the affected community, explain the goal, and intentions and to alley fears that the siting to such facilities will deterimentally affect the community.

Ladies and Gentlemen, in conclusion, if the citizens of Avenel had been given the opportunity to express their concerns and to understand the nature of group homes at a earlier date, we would not be here today. The establishment of this group home amongst my neighbors appears to many individuals to be both arbitrary and capricious. When tax paying citizens feel they no longer have any significant input into the governmental decision making process as in the instant case, we as officials must be concerned. My recommendations hopefully rectify the unfortunate failure of the Department of Human Services to promulgate regulations which allow for public discussion of group home siting. I would strongly urge you to consider these recommendations and in your deliberations as to legislative remedies, I would also urge you to recognize that the local home owner needs to be assured that he

has a voice in matters which affect his home and family.

Thank you for your attention.

TESTIMONY OF

ALFRED A. SLOCUM

ACTING NEW JERSEY PUBLIC ADVOCATE

PRESENTED TO THE

NEW JERSEY ASSEMBLY CORRECTIONS, HEALTH

AND HUMAN SERVICES COMMITTEE

ON COMMUNITY RESIDENTIAL FACILITIES

DELIVERED BY: GLORIA WRIGHT, ESQ.
LEGISLATIVE LIAISON

OCTOBER 16, 1985

On behalf of the Department of the Public Advocate, I would like to express appreciation to Assemblyman Otlowski and other members of the Assembly Committee on Corrections, Health, and Human Services for the opportunity to testify on the topic of community-based residential facilities. This is a subject of major interest to the Public Advocate because it affects New Jersey residents generally and, more specifically, the many disadvantaged members of our society in need of the treatment and direct services offered through these facilities (i.e., persons with developmental disabilities, former residents of psychiatric hospitals, exoffenders returning to their communities, and children without families). These programs have proven to be a successful and cost effective way of helping these vulnerable people become productive citizens and thus return to the mainstream of American life.

The Department of the Public Advocate has continuously supported efforts to develop community residential facilities. Community input can be a useful component in the establishment of such facilities. The effectiveness of these programs depends to a large extent on their integration into their environment. This can be best accomplished when the legitimate interests of the host community are heard. However, we must ensure that the host community is not manipulated to undermine the development of community residential facilities based on misinformation. Further, we must not limit location of these programs to communities where organized opposition does not exist. Every community in this state should be encouraged to bear its fair share of the responsibility

for hosting community residential facilities.

The history of community-based programs for mentally retarded and other developmentally disabled people illustrates the benefits to their participants.

Today as an alternative to costly and impersonal institutional confinement, large numbers of developmentally disabled people reside in group homes and other similar [community residential] programs, located throughout the state. These are usually single-family homes in residential neighborhoods established for the purpose of providing a living arrangement that is as normal as possible. The number of people in such homes is small (usually six) and supervision and training are provided to help residents learn the skills they need to adjust to community living. The residents themselves perform most household tasks, such as cleaning, laundry, gardening, and cooking.

Unlike institutions, group homes are not self-contained facilities. Some residents commute to work or to sheltered settings to receive vocational training. Others go to adult centers where they learn new skills and engage in structured activities. Staff members are responsible for linking residents with leisure time activities, religious programs, and other appropriate resources available in local communities.

These programs give developmentally disabled people opportunities for growth and development not present in large self-contained institutions where life is highly regimented and often depersonalized. Residents in community living programs are

challenged to learn new skills leading to greater independence: to prepare meals and perform other household chores, to use public transportation, to earn and spend their own money, and to use community social and recreational programs. The overall satisfaction of residents in community programs is high. They enjoy freedom and opportunities for new experiences.

Research in other states support these conclusions. A Comprehensive Five-Year Study conducted by Temple University for the federal government compared institutionalized mentally retarded persons to former mentally retarded residents of institutions who had moved into community programs. While the skill level of the institutionalized population remained constant, and in some cases even deteriorated, those living in the community demonstrated impressive gains in their ability to communicate, take care of themselves, adjust to daily living, and engage in employment. Community resources such as restaurants, stores, churches and temples, and movies were patronized, which translates into an economic bonus for the community.

Similar positive results can be demonstrated for other populations housed in community residential facilities. Yet despite the value of these programs, community opposition based on ungrounded fears and prejudices is sometimes present. Over the years, the Public Advocate has witnessed attempts to bar group homes. One town required a fence -- obstensibly to protect residents -- that would have cut across the front porch of a group home which was opposed by the community. Another town sought to

bar a home because of the noise and traffic allegedly associated with such a facility. The town ignored the fact that for years, the previous owner of the home had illegally operated a beauty parlor from her basement which involved considerably more traffic than a home with six residents who did not drive. Fortunately, in these cases, reason prevailed and the homes were eventually able to operate, and the towns people adjusted to their new neighbors.

There is a well established pattern of behavior that occurs in many communities. At first there is opposition by neighbors who fear property values will go down or crime will increase. But once the home is established and local residents have a chance to meet their new neighbors and see how well the facilities are maintained, opposition dissolves.

Residents of community facilities are aware of negative community attitudes. Many, even those with severe mental limitations, recognize a need to be especially careful about the appearance of the home. As one resident told us, "We wouldn't dare let crab grass grow in our yard."

It is not unexpected that communities want to know about the plans to establish a community residential facility so that legitimate concerns can be aired. The notice program operated by the Department of Human Services provides such an opportunity. However, we must be constantly vigilant to ensure that efforts to involve communities in the establishment of residential facilities do not serve as a means to frustrate the purpose. The communities must be given correct information so that reaction and input is not

based on emotion and misinformation.

New Jersey courts have continuously recognized that community residential facilities serve important regional and statewide needs and promote the general welfare of New Jersey as a whole. Recently, the Public Advocate participated in two cases where the courts ruled that a community residential facility was an inherently beneficial use that had no negative impact on the surrounding area.

In one of these cases, the court pointed out that it was to everyone's benefit that exoffenders have a structured transition from the institutional setting of incarceration back into their home communities. The court specifically rejected myths that halfway houses caused property values to decline, crime in the area to rise, or impeded community revitalization. In fact, the evidence did not show that the facility in question would have had any negative impact whatsoever. In another case involving the siting of a shelter for the homeless, the court reached a similar conclusion, finding the shelter met an acute regional need and fulfilled the strong public policy of enabling New Jersey to care for its own citizens in their time of misfortune.

Similarly, the New Jersey Supreme Court, in a case involving mentally retarded residents of a state institution, recognized the value of community-based facilities and state government's responsibility to ensure that such placements are available to handicapped persons.

[H]andicapped people are autonomous indivi-

duals entitled to the same rights and liberties as all other citizens. When the government sets out to do things which benefit them, it must do so in a way that infringes on their personal freedom as little as possible. The State must minimize their segregation from society to the extent feasible while providing for their needs.

N.J. Ass'n for Retarded Citizens v. Human Services, 89 N.J. 234, 250 (1982).

Just last spring, the United States Supreme Court invalidated the efforts of a Texas town to interfere with the establishment of a community residential facility for mentally retarded adults. Said the Court:

> [The town] was concerned with the negative attitude of the majority of property owners located within 200 feet of the [community residential] facility, as well as with the fears of elderly residents of the neighborhood. But mere negative attitudes, or fear, unsubstantiated by factors which are properly cognizable in a zoning proceeding, are not permissible bases for treating a home for the mentally retarded differently . . . .

City of Clebourne v. Clebourne Living Center, __ U.S. __, 53 U.S.L.W. 5022, 5026 (1985).

Community residential programs should also be supported

48X

because they are less costly to the taxpayer than institutional care. For instance, the annual cost to incarcerate a person in a New Jersey correctional facility is $16,765 compared to $12,775 to house a person in a half-way house. The annual cost to the State for the care of a state hospital patient is approximately $41,000 compared to approximately $15,000 for a group home.

Traditionally, this Committee has served as a powerful friend of the helpless and disadvantaged members of our society, as well as the public at large. Two years ago, this Committee, under Assemblyman Otlowski's leadership, approved legislation protecting the rights of developmentally disabled citizens residing in community facilities. The preamble to that legislation states that community placement is "highly desirable since it can lead to a fuller, richer, and more independent life . . . ." N.J.S.A. 30:6D-13. This goal applies with equal force to all of the segments of our society who are the subject of today's hearing.

The Department of the Public Advocate looks forward to working with this Committee to fulfill this important goal and to ensure that all citizens of New Jersey have a place to live and an opportunity to become productive members of their communities.

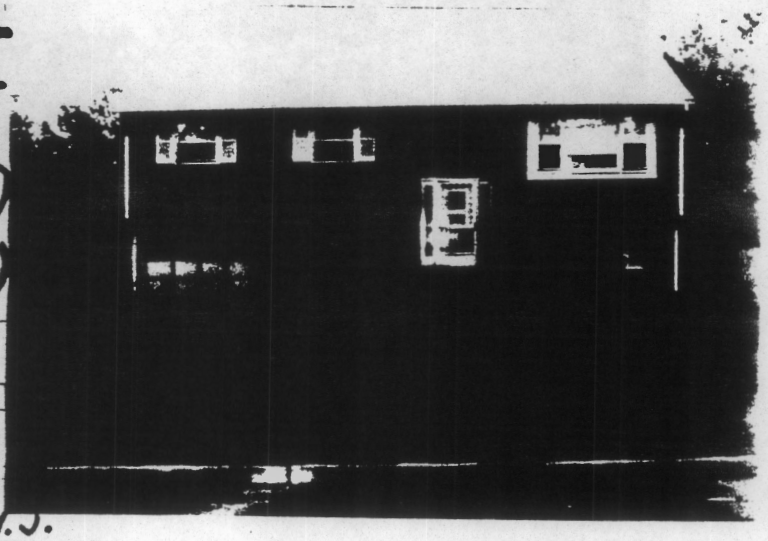
PHOTOGRAPHS OF THE EXISTING GROUP HOME AT
444 SCHOOL STREET IN WOODBRIDGE TOWNSHIP
AND THE HOUSE PURCHASED AS A GROUP HOME AT
696 EAST WOODBRIDGE AVENUE IN AVENEL,
PRESENTED TO THE COMMITTEE BY MR. UBE
CARDONE ON OCTOBER 16, 1985

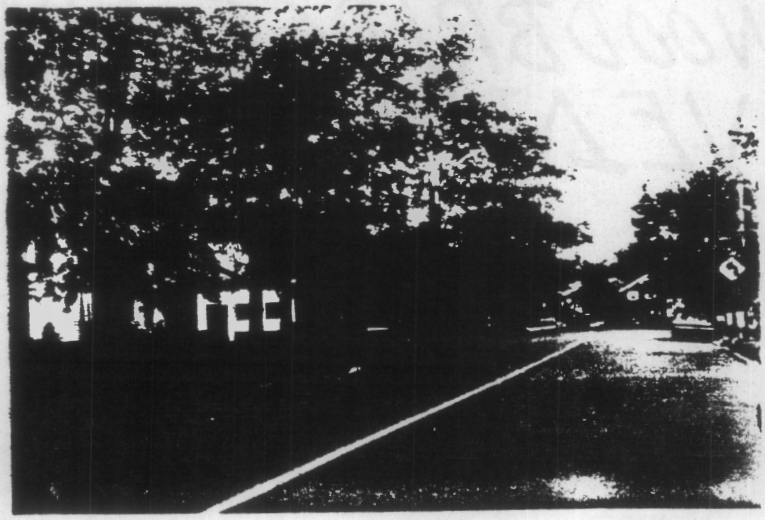
50X



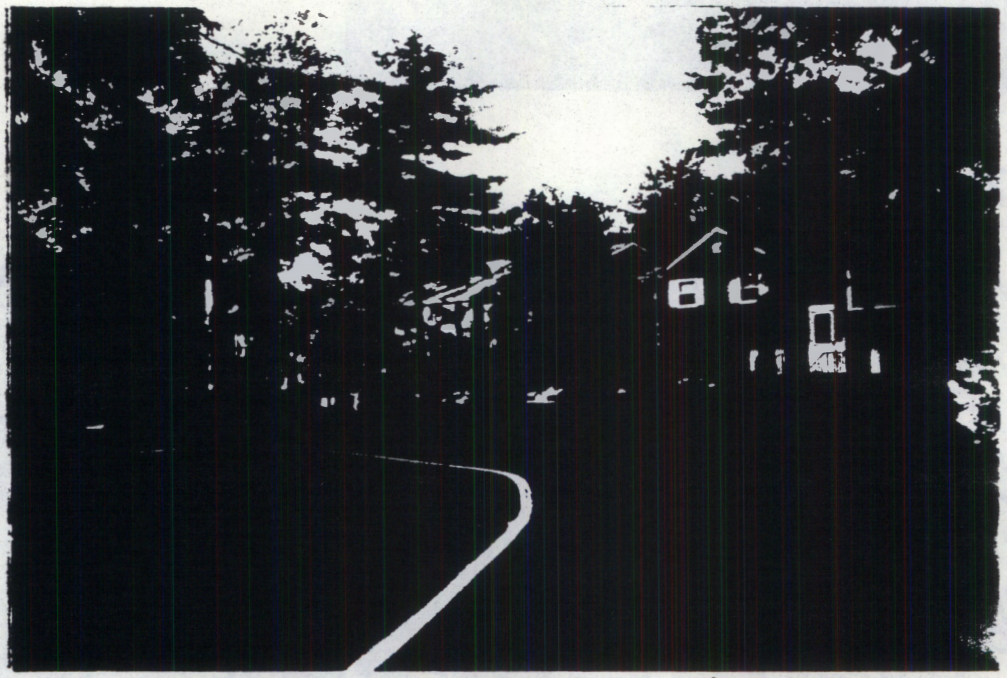
Picture's Taken on Sat. Sept. 14th 1985.

THIS IS → THE HOME PURCHASED BY THE AGENCY 696 EAST WOODBRIDGE AVE. AVENEL. N.J.





50X (a)



EAST WOODBRIDGE AVE.
AVENEL N. J.

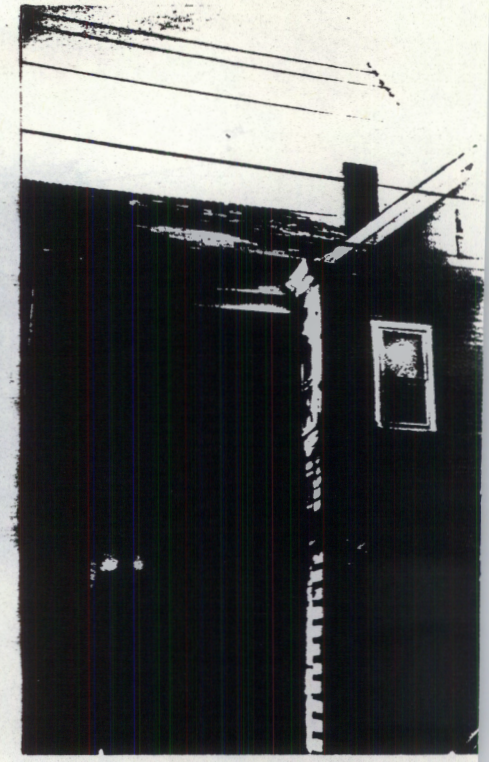
50x(8)



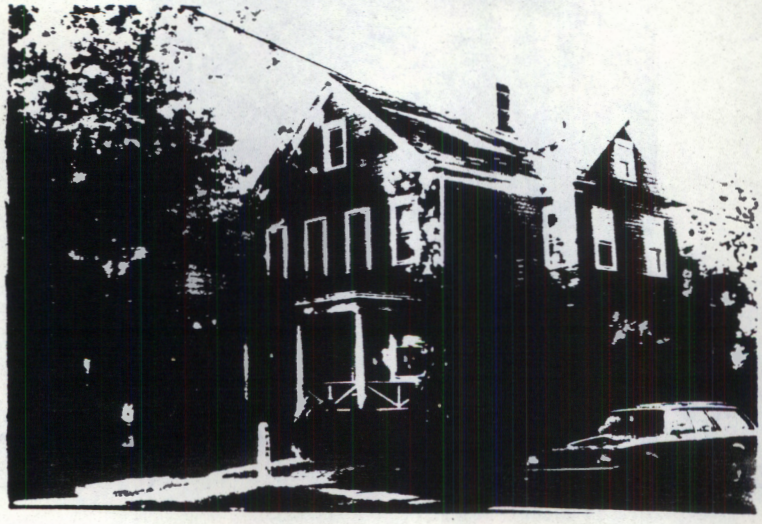


THE EXISTING GROUP HOME AT 444 SCHOOL ST., WOODBRIDGE TWP.





THE HOME NOW MANAGED BY THE AGENCY AT 444 SCHOOL ST. & PARK ST.





50 x (2)

1 THE HOME PURCHASED BY THE AGENCY AT 696 EAST WOODBRIDGE AVE., AVENEL (WOODBRIDGE TWP.)

50 x (2)

THE EXISTING GROUP HOME AT 444 SCHOOL ST., AVENEL (WOODBRIDGE TWP.)



50X (8)

THE EXISTING GROUP HOME AT 444 SCHOOL ST., AVENEL (WOODBRIDGE TWP.)



50 x (g)

United Cerebral Palsy Associations of New Jersey, Inc.

956 SOUTH BROAD STREET
TRENTON, N.J. 08611
(609) 392-4004

WILLIAM W. VOORHEES, JR., ESQ.
President

ROBERT STACK
Executive Director

Mr. Chairman, Members of the Committee, my name is Bob Stack and I am the Executive Director of United Cerebral Palsy Associations of New Jersey, Inc. As Executive Director I represent five regional affiliate agencies in New Jersey serving thousands of developmentally disabled individuals in residential and day programs. I have had the pleasure of appearing before this committee with respect to the developmental disabilities legislation and respect your progressive thinking in caring for individuals who need your attention. The track record of this Committee has been excellent.

I respectfully request a few minutes of your time to discuss key elements of the residential program and why it has been so effective towards enhancing the lives of the disabled.

With the inception of Chapter 11B of Title 30, (Originally known as S-210), the developmentally disabled have been able to live in a home much the same way as you or I would live without being zoned out. As you well know, the developmentally disabled historically were relegated to live in large institutions with a custodial model of care. Under the leadership of Commissioners Klein, Cardin, Albanese, Perselay, the direction of Eddie Moore, and the support of a morally conscious legislature, we have seen the disabled placed into the community where they are able to live their lives as they should, and as we all do. They live in a home with a work ethic, they live in a home where they can cook a meal as a family, or watch a ball game as a family, the problem is that technically they are not a family. However, you have given them the right, through the permitted use legislation the right to live in a group home as a family. They, as you or I, do not have to ask permission to live in a community. The Department of Human Services does let the community know through a prior notification policy that they will be in their community, but they do not have to receive sanctions from that given neighborhood. I am sure that you have heard that neighbors complain, and indeed they do, but this is before, and again I must emphasize before the group home is opened. Once the disabled move into the house, the fear and ambivilance of that neighborhood stop.

Someone once said, "If it ain't broke, don't fix it." These homes work. They are well kept, the disabled are well supervised, and the track record of the Department of Human Services, Division of Developmental Disabilities has been good.

As Executive Director I realize that we still must move forward at a pace consistent with need. Changing the existing statutes in their present form, as they relate to housing for the disabled will radically deter our mission.

Many of you have loved ones, family, or friends with a disabled son or daughter living at home. The question we must ask ourselves is what happens to that disabled individual when the parent cannot care for that person? You can make the difference between that parent having the option of a group home, (much the same as the atmosphere that their son or daughter has been accustomed to), living in, or existing in a bed on a ward of a large, costly institution. Even today we see individuals with cerebral palsy residing in nursing homes. The crime is that many are 35 years old or younger. They have normal intelligence, many even have a high school diploma. The problem is that they are wheelchair bound, and their parents could not lift them into a bed or put them in a bathtub because they are too old and do not have a group home alternative. We are confident that in the future there will be group homes for this population, and indeed the younger individuals who will need options in the future. This can only occur if we keep the current legislation intacted.

Lastly, I have also engaged in conversation with individuals committed to relocate the licensure responsibility for the Department of Human Services, Division of Developmental Disabilities to the Department of Community Affairs. Again, I must refer to track records. Just as the Department of Human Services has a good track record and just as this Committee and the legislature have maintained an excellent track record in voting for bills that help our disabled colleagues, and voting against bills that could endanger their well being, the track record for DCA as it relates to a number of boarding home fires is something we in the developmental disabilities community cannot forget. The Division, for the most part, monitors the group home program through third party contracts with non-profit providers like United Cerebral Palsy and the Association for Retarded Citizens. The monitoring mechanism is found in every aspect of the home. In the disabled receiving appropriate programs, in fiscal matters, in the physical plant, and in fire safety matters. If the group home provider does not uphold all of the programmatic, fiscal, and fire safety standards enforced by the Division of Developmental Disabilities, licensure and funding will be withdrawn. In light of this Division's responsibility in caring for the developmentally disabled in institutions, and the community, we ask that for the well being of the handicapped, the licensure remain intacted with the Division of Developmental Disabilities, as stated in Title 30:11B-4.

We at UCP want to see the continued development of group homes in New Jersey. New Jersey has, over the last five years, become a national leader in championing the rights of the disabled, we ask that this momentum move forward with this body's blessing and continued support.

STATE OF NEW JERSEY

DEPARTMENT OF COMMUNITY AFFAIRS
DIVISION ON WOMEN

JOHN P. RENNA
COMMISSIONER

329 WEST STATE STREET
CN 800
TRENTON, NEW JERSEY 08625-080

TESTIMONY OF JANET GRACE, LEGISLATIVE LIAISON

NEW JERSEY DIVISION ON WOMEN

Before

NEW JERSEY ASSEMBLY CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE

OCTOBER 16, 1985

The Division on Women supports the regulation of community based facilities, such as boarding homes, by State agencies.

The interest of the Division is with battered women's shelters. There are thirteen such shelters in New Jersey with an average capacity of 20 women and children. The length of stay for women in shelter is no more than 30 days. According to statistics from the Coalition for Battered Women, 49,000 women and children received shelter or counseling from these centers in 1984. This was an increase of 27% over 1983. Many people had to be turned away because of lack of space or because there was no shelter in that county.

The State needs more shelters for battered women but unfortunately many communities do not want them. They cite reasons such as introducing problem children to the neighborhood, unsavory people, over crowded and ill-kept housing, etc. The fact of the matter is that domestic violence has no socio-economic, racial or ethnic boundries. Battered women are found in every neighborhood and town.

Often a women and her children must leave the family home because of fear for their lives. They must be able to go to a shelter where the abuser cannot find them. Last year 59 women were killed as a result of domestic violence incidents.

At this time, many communities have very little information regarding the operation of boarding homes. Even with the hearings which are held by the Division of Youth and Family Service, who regulate Battered Women's Shelters, there is strong resistance to residential facilities. If communities were given total control of the placement of these facilities, it is possible fewer shelters would exist.

We urge the Committee to consider the hardship to many people in need of emergency care if state regulations are removed from locating community-based residential facilities.

Association for Retarded Citizens
SOMERSET COUNTY UNIT
P O BOX 382 • 203 SO MAIN ST MANVILLE, N J 08835
201-725-8544
Build the arc

MRS. JOAN SAPIENZA
Executive Director

OCTOBER 16TH TESTIMONY FOR JOAN SAPIENZA, EXECUTIVE DIRECTOR SOMERSET COUNTY ASSOCIATION FOR RETARDED CITIZENS

My name is Joan Sapienza, I live in Colonia, and I am Executive Director for the Somerset County Association for Retarded Citizens.

We have been establishing group homes for mentally retarded adults, ages 21 and older, for the past seven years. We have six group homes, and I am in the process of purchasing my seventh group home located in Franklin township.

Having had this experience behind me, I wish to make two points:

1. I have a waiting list of over 100 people who need a group home within the next five years.
2. Please don't make it more difficult for us to find group homes. It takes me approximately six months - to a year - to establish a home for six people.

I feel that one of the reasons why other providers face such great opposition when they open a group home is lack of public relations and public information. If you don't have an established reputation, then build one in your community. Extend yourself in inviting community leaders and neighbors to your programs before and after they open. Make sure that each town mayor and council members understand why you chose their town for a group home. (continued)

53X

When I select a group home, I need, first and foremost, 70 square feet per client for bedroom space. I look for ranch homes, with at least 3 bedrooms, a small yard to maintain, a dining area for 8 people with a large kitchen to allow staff to train clients to cook.

When the Somerset ARC opened its first group home I faced angry neighbors asking "Why us? Why don't you take THEM out to the country, where it's isolated, away from people."

It's sad but unfortunately true to say people forget that mentally retarded people are American citizens. They have the right and desire to live in nice neighborhoods. And in Somerset County, that's where they live.

When I open a group home, I hear two major complaints:

1. My property value will decrease.
2. My children will not be safe.

In the 7 years the Somerset ARC has maintained group homes, our next door neighbors have sold their houses at the current market rate. In New Jersey there are 170 group homes and supervised apartments, serving 1,210 people.

In conclusion, I can confirm that the current New Jersey D.D.D. guidelines for notifying a town about group homes are FAIR and they're WORKING. I have as part of my testimony a newspaper article on Hillsborough, a town that has had positive experience with group homes and the mayor in his leadership capacity welcomes a new group home.

(E N D)

Hillsborough Beacon September 26, 1985

Mayor welcomes home for retarded

By Karen Dolan
Staff Writer

Hillsborough is one of several municipalities being considered for the location of a new group home for retarded citizens.

The group home, which would be located in a residential area, would house six residents in a positive home-like atomosphere, said Joan Sapienza, executive director of the Association for Retarded Citizens (ARC).

ARC, following guidelines laid down by the state, notified the township that it was in the process of searching for a possible location. Hillsborough is one of 21 municipalities being considered.

"We always notify the mayors of the towns where we are looking," Mrs. Sapienza said. "Then, when we find a house appropriate to our needs. We hold a township meeting just to let everybody get their bad feelings out in the beginning."

Mayor Jerry Palmiotti said that the township would have no difficulty with the location of a group home for retarded citizens in Hillsborough. ARC presently operates a group home of this kind on Amwell Road.

That group home is probably one of the best kept houses in the township," the mayor said, "The experience we have had with the ARC people has been very positive."

A new boarding house ordinance being considered by the township would have no effect on the possibility of this group home. The new ordinance would limit boarding homes to no more than two persons at a time living in exchange for payment.

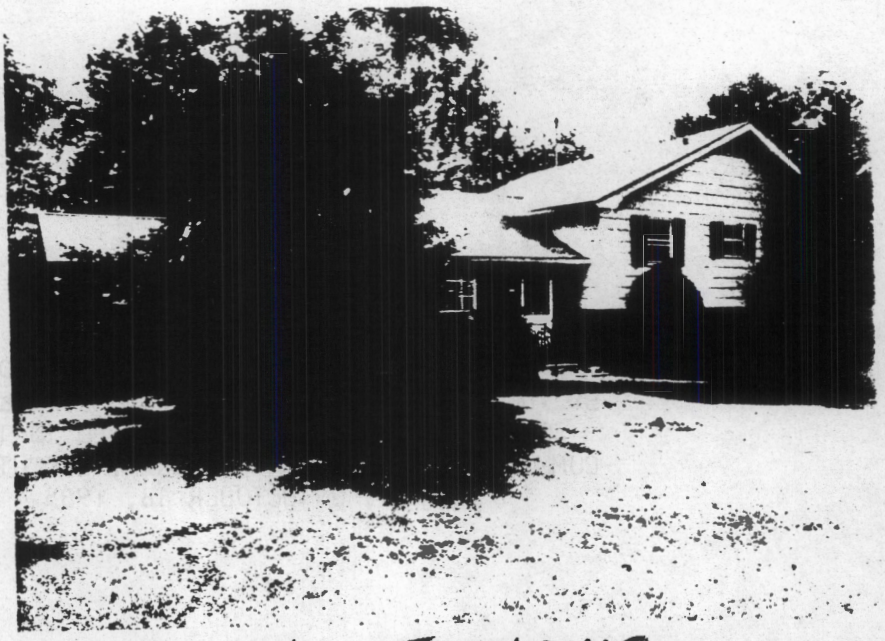
Group homes for the developmentally disabled and for retarded citizens are protected from local zoning regulations by a 1978 state law that declared it illegal to prevent a group home of this nature from locating in any residentially zoned area. The home must provide 70 square feet of space per person and must not house more than six clients at any give time, according to state regualtions.

Mayor Palmiotti said there is no comparison between this group home and Earth House, a Franklin-based treatment center for scizophrenics that operates a group home in the Fox Chase development.

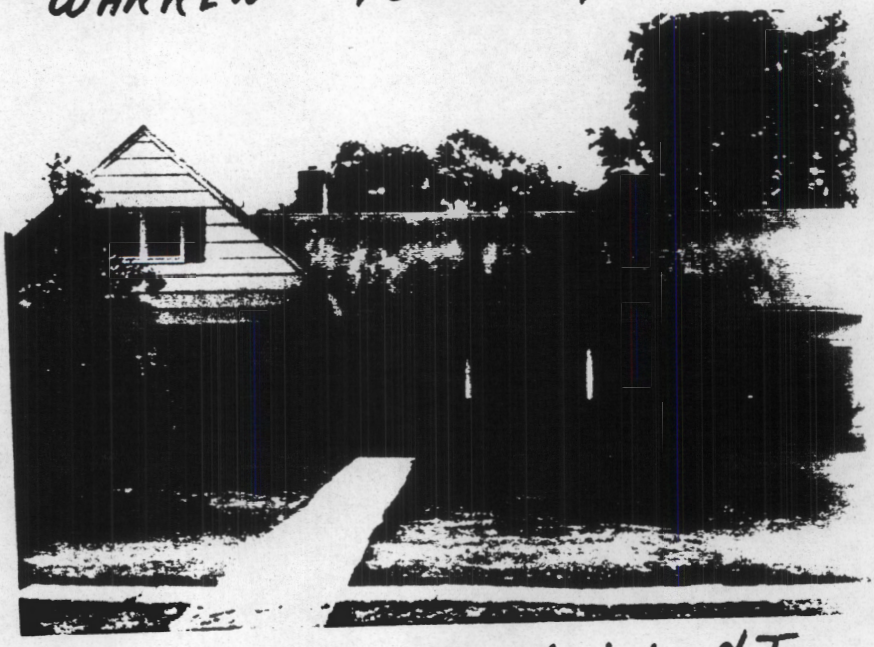
"ARC is a different story from Earth House," the mayor said. "We are familiar with ARC and the ARC program. Dealing with schizophrenia is a different thing," he said.

55X

PHOTOGRAPHS OF GROUP HOMES OPERATED BY THE ASSOCIATION FOR RETARDED CITIZENS, SOMERSET COUNTY UNIT, PRESENTED TO THE COMMITTEE BY MS. JOAN SAPIENZA, EXECUTIVE DIRECTOR, ON OCTOBER 16, 1985



WARREN TOWNSHIP

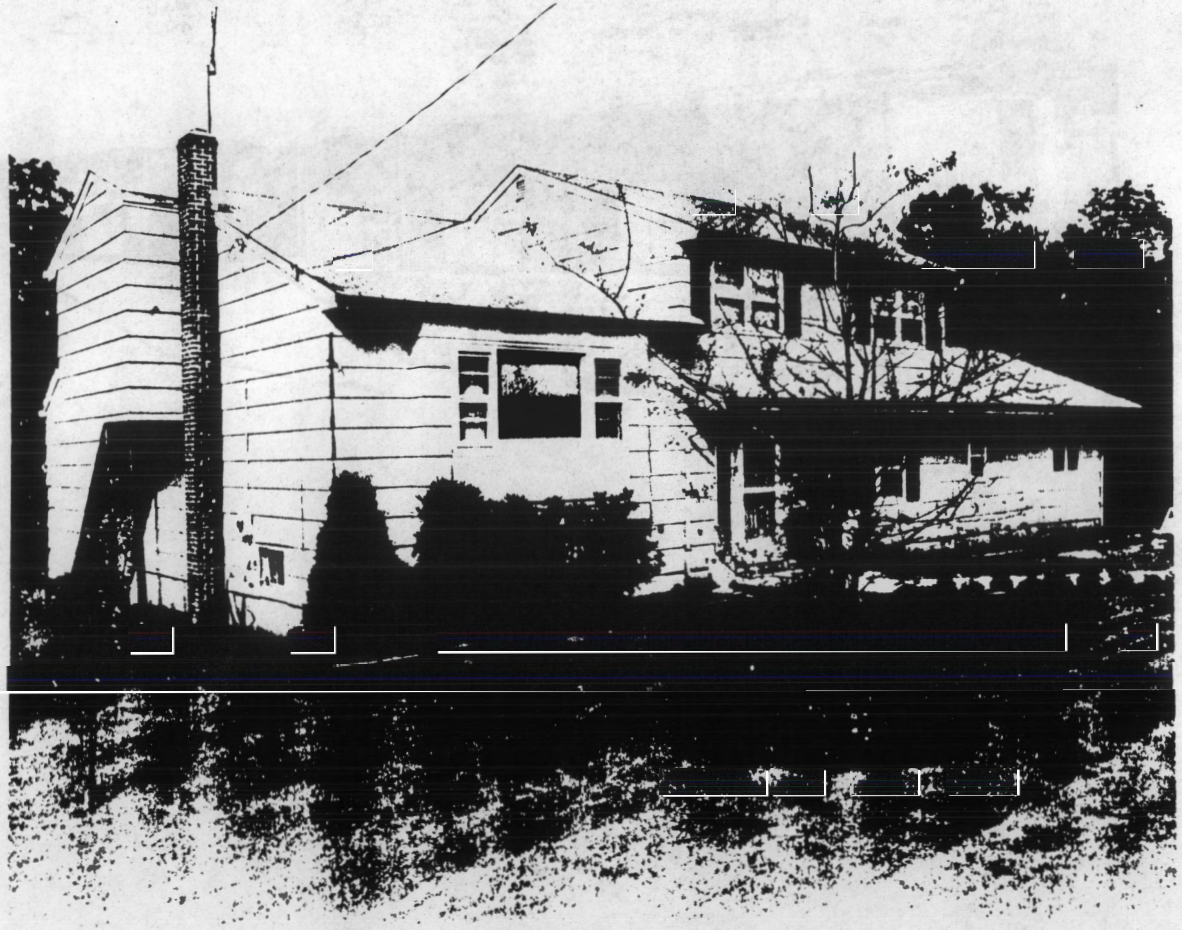


BUFFA DR., FRANKLIN, NJ

ARDSLEY ROAD, HILLSBOROUGH

56x(7)

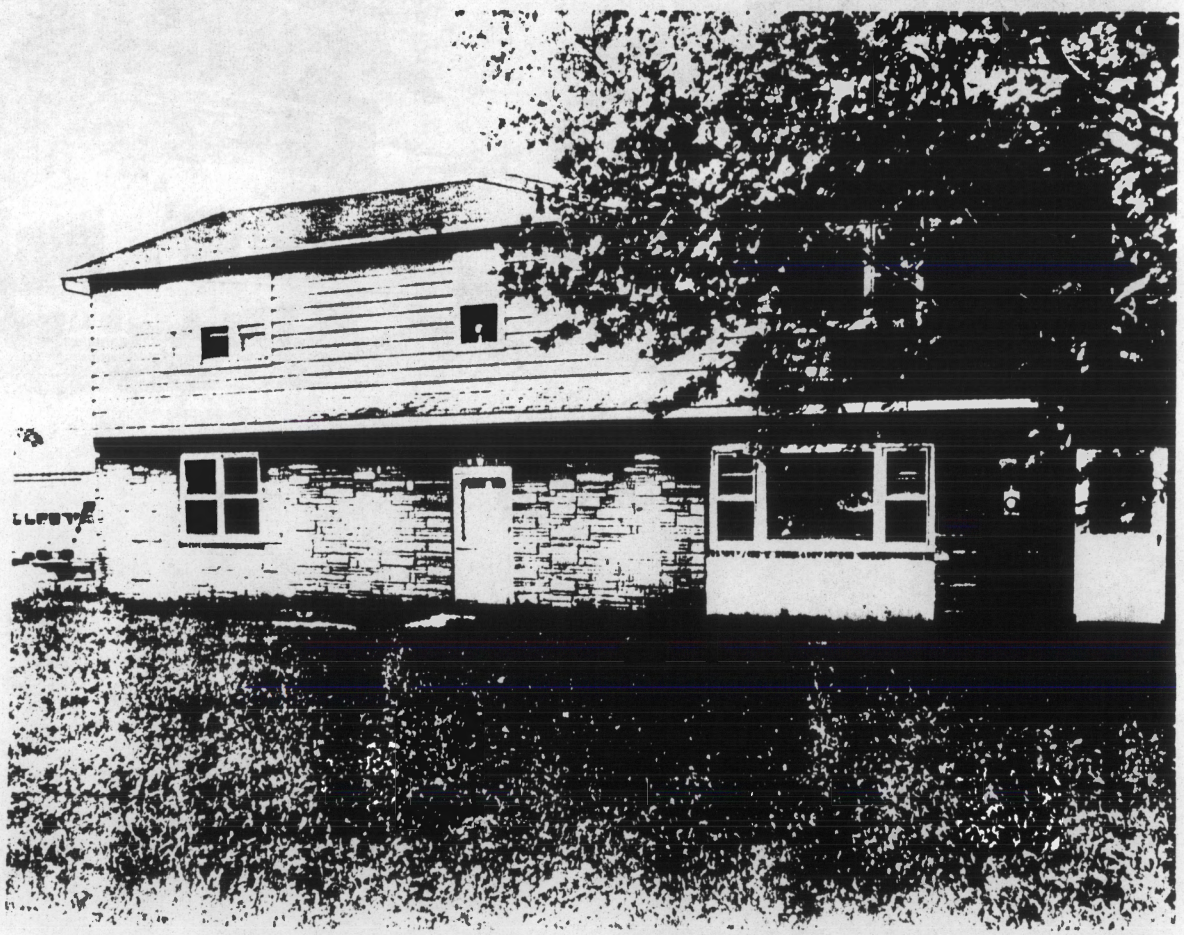
56 x (c)



CAMBRIDGE DRIVE, BRIDGEWATER



GLENCREST DRIVE, BRANCHBURG



ROUTE 202 - RESPITE HOME, BRANCHBURG

56X(2)

Association for Retarded Citizens Morris Unit New Jersey

P.O. Box 123, Morris Plains, New Jersey 07950 (201) 326-9750

TO: The Assembly Corrections, Health and Human Services Committee

DATE: October 15, 1985

FROM: Harry F. Wilkinson, Executive Director
Barry Levine, President

RE: Public Hearing to Review State Rules and Regulations Governing the Location of Group Homes in the Community

I am Harry F. Wilkinson, the Executive Director of the Morris County Unit and I have been asked by the ARC, Morris County Unit President, Barry Levine and the Board of Directors to speak to you today in strong support of the present regulations concerning the notification process established by the N. J. Department of Human Services regarding communicating with local municipalities concerning the development of Group Homes to municipalities.

I have had the privileged opportunity as the Executive Director of the ARC, Morris Unit to have successfully opened, fully licensed and approved, five beautiful Community residences in Morris County, New Jersey over the last three years. These residences house six adults, each of whom are mentally retarded or developmentally disabled. These homes are located in Parsippany, Rockaway Township, Hanover Township, Morris Plains and Morris Township.

The ARC, Morris Unit didn't start residential services as early as some other local ARC's, therefore, we were among the first private non-profit agencies required to use the present regulations on prior notification and have found them very useful and workable.

In every Group Home Opening, we have followed the guidelines very carefully, but we have never limited the time when a Community may respond to our certified announcement. We have made it a policy to develop good communications between our Association and the potential Municipality and work very hard to be sensitive and alert to the many local concerns and issues that often are important.

As a matter of fact, I will be attending a meeting of the Jefferson Township Council tonight at 9 PM to explain just what effect a Group Home will have in their Community. We believe it is important to apprise the Municipality of many important facts that they might be uninformed about, such as confusion between mentally retarded citizens and mentally ill individuals and that property values remain uneffected after the establishment of Group Homes in the Community.

The Council Meeting tonight for, example, takes place two months after our first notification of our desire to locate a Group Home in Jefferson Township far longer than the present guidelines require. I will not tell you that there has been no opposition, however, without exception, once we meet with the individual Community officials, meet the neighbors privately and sometimes in public meetings and clarify what a Group Home is by even letting the Municipality sometimes meet with other group home residents, there has been total support in every case! We invite the Community to various functions to meet the new residents in their community. We have had Open Houses and Dedications which the Mayors, and Council Representatives have attended. Congressman Dean Gallo, State Senator Leanna Brown, as well as other dignitaries have in every case in all five homes shown fine support for our Group Homes to date and the ARC, Morris Unit activities.

Our Group Homes are not only maintained beautifully, but they are also well managed. I could tell many wonderful stories of the growing dignity and worth the residents feel when they have made the move from institutional life to become part of a residential family and active citizens in their local Community. Our residents are very active in their respective Communities by working, attending Churches and Synagogues, taking part in the Award winning McARP recreational programs, by being active consumers, shopping in their Communities and being good citizens by registering to vote and taking active interest in elections.

In the few cases where there has been a sensitivity or poor acceptance in the neighborhood, we have found that our residents have been the most effective positive force themselves in gaining support in their own neighborhood. They have dramatically demonstrated that BEING RETARDED NEVER STOPPED A PERSON FROM BEING A GOOD NEIGHBOR.

On behalf of our President, Barry Levine, Board of Directo Group Home Citizens Advisory Board and Lee Wieder, President of our Morris Unit Corporation for Housing, I strongly urge this committee not to change one iota of the rules and regulations governing the selecting of Group Homes. In Morris County, we h proven that given time for the process to be implemented, it wo

Respectfully submitted,

Harry F. Wilkinson
Executive Director

cc: Barry Levine
Lee Wieder
John Scagnelli
Board of Directors
Eddie Moore

arc

Association for Retarded Citizens Morris Unit New Jersey

P.O. Box 123, Morris Plains, New Jersey 07950 (201) 326-9750

FACT SHEET NO. 1

THE NOTIFICATION PROCESS ESTABLISHED BY THE NEW JERSEY DEPARTMENT OF HUMAN SERVICES REGARDING COMMUNICATING WITH LOCAL MUNICIPALITIES CONCERNING THE DEVELOPMENT OF GROUP HOMES

(The following is taken exactly from the New Jersey Register, Monday, November 1, 1982, "Chapter 4, Communication with Communities regarding the Development of Group Homes")

SUBCHAPTER 1 - STATEMENT OF POLICY AND SCOPE

10:4-1.1 Policy

(a) Individual development for the Department of Human Services' clients is a continuing process which requires increasing degrees of personal autonomy. A Department goal is the provision of a comprehensive service system which will accommodate the normalized living environment needs of these clients. Community residential living is an integral part of that service system.

(b) Community awareness of the group home program and the Department's clients it serves is important for everyone. Formalizing communication with citizens and municipal officials will enhance cooperation among the division responsible for the clients, the agency operating the program and the municipality in which it is to be located. This chapter shall not be construed as an abrogation of the clients human and civil rights, including the right to live in residential zones of any municipality.

10:4-1.2 Scope

(a) This chapter governs those divisions agencies under the jurisdiction of the Department of Human Services which operate and/or contract for group home services and provider agencies which provide such services for the Department of Human Services clients.

(b) Individuals or groups which are not seeking State funding may also be entitled to establish a licensed or otherwise regulated group home. The Department is under no obligation to fund all regulated programs.

SUBCHAPTER 2 - PURPOSE AND GENERAL PROCEDURES

10:4-2.1 Purpose

The purpose of this chapter is to establish a mechanism for advising communities of the intent to establish a group home funded by the Department of Human Services in their area.

2. Specific information about the group home program, client characteristics, division standards;

3. An offer that the provider agency and the appropriate division share specific information regarding the group home with the immediate neighbors; and

4. An invitation for both local officials and neighbors to visit the home when it opens.

10:4-2.6 Group Home Citizens Advisory Board

(a) All provider agencies must have a Citizens Advisory Board with a minimum of seven members for the group home(s) it operates.

(b) The Citizens Advisory Board can be formed at any time but must be appointed within 60 days after a particular home has been licensed or contracted with.

(c) The Citizens Advisory Board shall be composed of interested individuals whose knowledge and expertise can contribute to the development of the home. Membership shall minimally include participation from each of the following groups:

1. Consumers of the sponsoring Division's services, with consumers including present and past recipients and the parents, guardians and siblings of such recipients.

2. Individuals from local community.

3. Key persons from the community civic and service groups; and

4. Professionals who can provide expertise in various fields.

(d) The appropriate division shall be notified of all appointments to the Citizens Advisory Board and any changes in the Board composition within 15 days. In specific cases, and with the approval of the division, a local Board of Directors associated with the provider agency may function as the Citizens Advisory Board.

(e) The provider agency may have more than one Citizens Advisory Board depending on the location and number of homes operated by the agency.

(f) The responsibilities of the Citizens Advisory Board will include, but not be limited to, the following:

1. Promoting community relations.

2. Encouraging the public/private sectors to provide competitive employment.

3. Recruiting volunteers.

4. Reviewing admission and discharge of clients against criteria for admission and continued stay.

5. Planning short and long range goals and objectives; and

6. Identifying community based services.

1979 Senate No. 3244 (*Official Copy Reprint*)

AN ACT to amend the title of "An act concerning community residences for the developmentally disabled, and supplementing the 'Municipal Land Use Law,' approved January 12, 1976 (P. L. 1975, c. 291)," approved December 7, 1978 (P. L. 1978, c. 159, C. 40:55D-66.1 et seq.), so that the same shall read "An act concerning community residences for the developmentally disabled and community *[spousal assault shelters]* **shelters for victims of domestic violence**, and supplementing the 'Municipal Land Use Law,' approved January 14, 1976 (P. L. 1975, c. 291)," and to amend the body of said act.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The title of P. L. 1978, c. 159 (C. 40:55D-66.1 et seq.) is amended to read as follows: An act concerning community residences for the developmentally disabled *and community* *[spousal assault shelters]* **shelters for victims of domestic violence**, and supplementing the "Municipal Land Use Law," approved January 14, 1976 (P. L. 1975, c. 291).

2. Section 1 of P. L. 1978, c. 159 (C. 40:55D-66.1) is amended to read as follows:

1. Community residences for the developmentally disabled *and community* *[spousal assault shelters]* **shelters for victims of domestic violence** shall be a permitted use in all residential districts of a municipality, and the requirements therefor shall be the same as for single family dwelling units located within such districts; provided, however, that, in the case of a community residence for the developmentally disabled *or community* *[spousal assault shelter]* **shelter for victims of domestic violence** housing more than six persons, excluding resident staff, a *[Zoning ordinace]* **zoning ordinance** may require for the use or conversion to use of a dwelling unit to such a community residence *or shelter*, a conditional use permit in accordance with section 54 of the act to which this act is a supplement (C. 40:55D-67). Any requirements imposed for the issuance of a conditional use permit shall be reasonably related to the health, safety and welfare of the residents of the district; provided, however, that a municipality may deny such a permit to any proposed community residence for the developmentally disabled *or community* *[spousal assault shelter]* **shelter for victims of domestic violence** which would be located within 1500 feet of an existing such residence *or shelter*; provided further, however, that a municipality may deny the issuance of any additional such permits if the number of [developmentally disabled and mentally ill] persons, *other than resident staff*, resident at existing such community residences *or community shelters* within the municipality exceeds 50 persons, or 0.5% of the population of the municipality, whichever is greater.

3. Section 2 of P. L. 1978, c. 159 (C. 40:55D-66.2) is amended to read as follows:

2. As used in this act[,]: *a.* "community residence for the developmentally disabled" means any community residential facility licensed pursuant to P. L. 1977, c. 448 (C. 30:11B-1 et seq.) providing food, shelter and personal guidance, under such supervision as required, to not more than 15 developmentally disabled or mentally ill persons, who require assistance, temporarily or permanently, in order to live in the community, and shall include, but not be limited to: group homes, half-way houses, intermediate care facilities, supervised apartment living arrangements, and hostels. Such a residence shall not be considered a health care facility within the meaning of the "Health Care Facilities Planning Act" (P. L. 1971, c. 136; C. 26:2H-1 et seq.). In the case of such a community residence housing mentally ill persons, such residence shall have been approved for a purchase of service contract or an affiliation agreement pursuant to such procedures as shall be established by regulation of the Division of Mental Health and Hospitals of the Department of Human Services. As used in this act, "developmentally disabled person" means a person who is developmentally disabled as defined in section 2 of P. L. 1977, c. 448 (C. 30:11B-2), and "mentally ill person" means a person who is afflicted with a mental illness as defined in R. S. 30:4-23, but shall not include a person who has been committed after having been found not guilty of a criminal offense by reason of insanity or having been found unfit to be tried on a criminal charge.

b. "*Community* *[spousal assault shelter]* **shelter for victims of domestic violence**" *means any shelter approved for a purchase of service contract and certified pursuant to standards and procedures established by regulation of the Department of Human Services pursuant to P. L. . . . . , c. . . . . (C. . . . .) (now pending before the Legislature as Senate No. 807), providing food, shelter, medical care, legal assistance, personal guidance, and other services to not more than 15 persons who have been victims of* *[spousal assault]* **domestic violence**, *including any children of such victims, who temporarily require shelter and assistance in order to protect their physical or psychological welfare.*

4. This act shall take effect *[immediately, but shall remain inoperative until the enactment]* **upon the effective date** of Senate No. 807 (now pending before the Legislature).

Association for Retarded Citizens Morris Unit New Jersey
P.O. Box 123, Morris Plains, New Jersey 07950 (201) 326-9750

FACT SHEET NO. 2

AN INTERPRETATION

THE NOTIFICATION PROCESS ESTABLISHED BY THE NEW JERSEY DEPARTMENT OF HUMAN SERVICES REGARDING COMMUNICATING WITH LOCAL MUNICIPALITIES CONCERNING THE DEVELOPMENT OF GROUP HOMES

(Please note that the Notification Process taken exactly from the New Jersey Register, November 1, 1982, "Chapter 4, Communication with Communities regarding the Development of Group Homes" is reproduced below with the ARC, Morris Unit adding italics, capitalizing and underlining for purposes of clarification.

In addition, the ARC, Morris Unit, in response to questions and recommendations from local Morris County Communities seeking an interpretation of these Guidelines, has enclosed within a "Box" in each Sub Chapter, further narrative in an effort to provide this information.)

SUBCHAPTER 1 - STATEMENT OF POLICY AND SCOPE

10:4-1.1 Policy

(a) Individual development for the Department of Human Services' clients is a continuing process which requires increasing degrees of personal autonomy. A *Department goal is the provision of* a comprehensive service system which will *accommodate the normalized living environment needs of these clients.* Community residential living is an integral part of that service system.

(b) *Community awareness of the group home program and the Department's clients it serves is important for everyone.* Formalizing communication with citizens and municipal officials will enhance cooperation among the division responsible for the clients, the agency operating the program and the municipality in which it is to be located. THIS CHAPTER SHALL NOT BE CONSTRUED AS AN ABROGATION OF THE CLIENTS HUMAN AND CIVIL RIGHTS, INCLUDING THE RIGHT TO LIVE IN RESIDENTIAL ZONES OF ANY MUNICIPALITY.

10:4-1.2 Scope

(a) This chapter governs those division agencies under the jurisdiction of the Department of Human Services which operate and/or contract for Group Home services and provider agencies which provide such services for the Department of Human Services clients.

(b) Individuals or groups which are not seeking State funding may also be entitled to establish a licensed or otherwise regulated Group Home. The Department is under no obligation to fund all regulated programs.

FACT SHEET NO. 2

THE ARC-MORRIS UNIT, NEW JERSEY POSITION

THE ARC, MORRIS UNIT, in conformance with its National and State components, has adopted Position Statements that fully endorse the New Jersey Statement of Policy and Scope developed by the Department of Human Services and the Division of Mental Retardation (DMR) outlined in Chapter 4, Sub Chapter 1 (See Fact Sheet No. 1). The ARC Position Statements incorporates the "Normalization Principle" regarding community living arrangements as a part of a sound comprehensive service system for citizens with retardation.

THE ARC, MORRIS UNIT BOARD OF DIRECTORS has committed itself to the identified priority need for a wide variety of community living arrangements, including the Group Home model in Morris County for the present decade, with the objective of establishing a minimum of at least one Group Home in every Morris County Municipality within the next five years.

THE ARC, MORRIS UNIT, with other local County Units in New Jersey, is proud of the excellent results and the success of the over 140 Group Home Projects now in operation in New Jersey and pledges itself to making every effort to provide homes of the finest quality in Morris County with appropriate programs, trained staff, good facilities, and consistent on-going operations. In cooperation with the Northern Region of DMR, the professional staff of the ARC will maintain a "Team Approach" in implementing the policy and scope of the State Guidelines and Procedures in working cooperatively with the local municipalities.

THE ARC BOARD OF DIRECTORS further endorses the State Policy that a citizen's human and civil rights shall not be abrogated in any way, including the right to live in a local community simply because the person is retarded or handicapped.

IT IS THE POSITION OF THE BOARD OF DIRECTORS OF THE ARC that it is *a serious violation of retarded citizens' human rights for any community to suggest that the neighbors, or a specific community, "be consulted" for purposes of "giving approval or endorsement" of either the clients or their home before a house is purchased or before the residents move in to the dwelling.* Handicapped citizens, who are retarded, are protected as any other citizen by the Constitution and in regards to the Group Home Project by N.J.S.A.-40: D-66.1.2.

THE ARC, MORRIS UNIT, through its staff and volunteers, will seek to cooperate, assist the general public, local officials and specific neighbors in understanding the facts about retardation, explaining what a Group Home is actually like and to try to relieve the normal fears and misunderstandings that frequently are the real basis for community concern.

Citizens, who are retarded are not "Mentally Ill", are not "Drug Addicts", and are not "Sick". Retardation is primarily a developmental disability, associated most frequently with slowness and delay in normal functions.

"Being retarded never stopped anyone from being a good neighbor".

SUBCHAPTER 2 - PURPOSE AND GENERAL PROCEDURES

10:4-2.1 Purpose

The purpose of this chapter is to establish a mechanism *for advising communities of the INTENT TO ESTABLISH a Group Home* funded by the Department of Human Services in their area.

10:4-2.2 Divisional Assessment of Need

(a) Each division will request proposals from appropriate provider agencies based on pre-determined needs of the division for a particular service and the availability of funding.

(b) The *provider agency, in conjunction with the division, decides on possible municipalities for locating the Group Home* within a selected area.

THE ARC-MORRIS UNIT, NEW JERSEY POSITION

THE ARC, MORRIS UNIT, we understand, was perhaps the first provider agency to be responsible for implementing the guidelines and procedures under Chapter 4 "Communication With Communities Regarding the Development of Group Homes" (see Fact Sheet #1). Up until that time, there were informal and voluntary approaches regarding community involvement. The guidelines were developed to provide "a mechanism" for advising the communities of "the intent to establish a group home" but carefully attempted to avoid the serious legal and civil rights problems experienced by other states that unsuccessfully tried to limit or restrict group homes from certain communities. (see Important Human Rights Issues addressed in box above).

THE ARC, MORRIS UNIT along with other provider agencies was invited to "submit proposals"upon request from DMR to develop group homes in a particular area after the decision was made for need. (see Fact Sheet #3 to see how this process was followed in Morris County.)

THE ARC, MORRIS UNIT, also developed its own "Needs Assessment Survey" within its own large membership base to have families with retarded children or adults still living at home advise the ARC when their families might have need for a community placement.

This Needs Assessment Survey, made in 1983/84 dramatically documented the great need for the ARC and DMR to develop group homes and other community living arrangements to prevent Morris County's citizens in the future from being placed into state institutions for lack of housing options.

Since group homes usually are limited to 6 or 8 residents in New Jersey, it became immediately apparent this must become a top priority objective of the ARC and DMR in Morris County. Furthermore the high cost of real estate in Morris County soon became a limiting factor with extreme market competition for housing under $150,000 in the eastern end of the county. Also in Morris County, the Bell System Divestiture drastically inflated the available real estate market as AT&T and its subsidiaries employees quickly purchased the limited number of housing available in this price range.

PROBLEMS OF REAL ESTATE COMPETITION - By the time a property became listed on the broker's listing files in those areas where DMR had requested development and by the time the ARC would inform the local municipality of its intent to develop a group home and then go through all the steps required to be taken before a Contract of Sale is signed, very often the listed property would be sold or taken off the market by a contract deposit.

COOPERATION HAS BROUGHT ABOUT SUCCESS - Nevertheless through hard staff work, quick response by state officials, excellent participation by volunteers and local officials, the Morris County ARC has been extremely successful in securing highly desirable property within the restrictions of the guidelines, while, at the same time, cooperating as quickly and as fully as possible with local communities in understanding what the group home project is all about.

THE KEY POINT IN THIS SECTION OF THE GUIDELINES IS TO PROVIDE A "MECHANISM" FOR ADVISING COMMUNITIES - The purpose, thus, of these Guidelines is primarily to establish a "mechanism" for advising communities of the intent to establish a group home and does not in any way imply or require that a period of time should evolve before an actual purchase of a property is to take place. This is probably the most common misunderstanding and will be addressed below detailedly.

10:4-2.3 Responsibility of Provider Agency Prior to the Selection of a Specific Site

(a) Once a general area is selected, the provider agency shall write, by registered letter, to the local officials of the community informing them that there is a possibility of establishing a group home within that community. The letter shall include an offer that the provider agency meet informally, within 15 working days, with the local officials of the community TO PROVIDE GENERAL INFORMATION AND FACTS ABOUT GROUP HOMES, and/or subsequently, with civic or service organizations and others, UPON REQUEST. A copy of this letter shall be sent to the appropriate division.

(b) If the provider agency and/or the local officials request the attendance of Department representatives at any meeting(s), the provider agency shall notify the appropriate division.

10:4-2.4 Responsibility of Department of Human Services Prior to the Selection of a Specific Site

(a) Upon receipt of the letter sent to the local officials by the provider agency, *the division shall inform, in writing, the Senators and Assemblymen in whose district the community is located that there is a possibility of establishing a Group Home within that community.* The letter shall indicate that the local officials have been informed by the provider agency and that the provider agency and the appropriate division stand ready to provide information regarding the program to all segments of the public.

(b) Staff from the division funding the program shall attend any meeting(s), when requested by the provider agency, with local and/or State officials and community groups, regarding the establishment of Group Homes.

THE ARC-MORRIS UNIT, NEW JERSEY POSITION

THE ARC, MORRIS UNIT, after establishing three community group homes to date in Morris County has frequently had to deal with a common misunderstanding concerning the interpretation of this section of the guidelines. As indicated above, the Letter of Intent from the Provider Agency (ARC) that is sent to the Mayor or the appropriate local official of the selected community where a group home is to be developed must include an offer to meet informally within 15 working days with the local officials to provide general information and facts about the group home with any other civic or service organization upon request. The ARC, in developing this notification letter, has always gone beyond that suggestion, and has offered to meet at any time with local officials to explain the group home project. IT IS IMPORTANT TO BE AWARE that the 15-day working period from the time of the notification to the municipality does not require or suggest that the provider agency cannot activate an agreement of sale for a desirable property for a projected group home. Notification is primarily to give an opportunity for the community to be aware that such a home may be forthcoming and does not indicate or suggest whether it be immediate or in the future.

However, it should be noted from experiences identified above by the ARC in Morris County, that, in some cases, the community may be informed of the intent to establish a group home but it could be many weeks, months, or not actually possible to secure such a home meeting the criteria of the state and the cost limitations of purchased property. By the same token, on the other hand, in some cases a notification sent to the local municipalities may be the direct result of listings that appear on the market suggesting the possibility of available real estate and by the time the public meeting is arranged, a property site might either be already projected or negotiated or under review or may be finalized in a contract agreement.

The reality of the process to complete all the necessary particulars for a property to be eligible for a group home for developmentally disabled citizens necessitates a period of time that could be short or long dependent upon the coordination of the required steps for review. The ARC, Morris Unit has frequently been disappointed by going through the process only to discover, after all the steps are taken, that someone else has made an offer and the house is taken off the market before the ARC can legally make a sound offer.

Some municipalities do not readily respond to the notification letter or delay in sharing this information with their constituencies for a variety of reasons. The ARC, Morris Unit, however, has established a policy that, not only does it inform the municipalities of the notification but immediately provides notification to the appropriate Senator and Assemblypersons of the area. The ARC also informs its membership within that municipality so that they too may be aware of their Unit's activity in their municipality.

In some cases, townships have offered suggestions to the ARC of available sites and if no prior determination has been made, the ARC staff

is always willing to explore such recommendations and suggestions. It has been the experience of the past that unless one understands the requirements for the community home program, recommendations are usually of size, design and cost that are not acceptable to the total program. Here again, this is an informal option offered by the ARC and is not a requirement in the guidelines. In the past, most of the suggestions that have recommended to us informally have already been reviewed by the brokers with whom the ARC does business.

The offer to provide information to local officials is sometimes sufficient by way of community kits, posters and general information. Every township does not always desire a public meeting and in some cases, it has been sufficient simply to meet with the local township committee.

The important misunderstanding to be clarified in this part of the guidelines is to note that the 15 working days is for the period of reviewing with public officials "What a Group Home Program is All About" and to become aware of the intention to establish such a home in a municipality. It should not be ever construed that such a notification was provided in order to allow a particular neighborhood or a community to select a home, give approval of retarded clients living in the community or to be involved in the process of selecting a suitable home. The purpose here is communication and to learning what the group home program in New Jersey is.

THE ARC BOARD OF DIRECTORS in cooperation with the Residential Services Committee is constantly reviewing ways in which the community awareness and the public involvement can be improved once a selection is made.

In the case of Morris Plains, New Jersey and the fact that the selection of a property moved very quickly through the necessary procurement steps (See Fact Sheet #3), it was suggested by the Borough Council and adopted as a policy by the Board of Directors of the ARC at its January 30th meeting (after review by the Residential Services Committee) to proceed to notify all Morris County municipalities where the ARC intends to ultimately establish group homes so that additional lead time may be given than required by the guidelines for communities to receive information about the group home program. The ARC will also continue to release new stories and articles in the press to continue its community awareness effort so that the excellent community group home program may be more fully understood.

10:4-2.5 Responsibility of Provider Agency After Site Selection

(a) Following the completion of the notification process required by this chapter, a site for the Group Home will be selected in conformance with standards provided by the division funding the program.

(b) UPON EXECUTION OF A VALID AGREEMENT OF SALE, THE LOCAL OFFICIALS SHALL BE NOTIFIED OF THE SPECIFIC LOCATION, by registered mail, by the provider agency. Simultaneously, copies of this notification will be sent to the appropriate Senators, Assemblymen and to the appropriate division. This letter shall include:

1. A suggestion that a meeting be held with local officials within 15 working days in order to meet with staff of the appropriate division and the provider agency.
2. Specific information about the Group Home Program, client characteristics, division standards;
3. An offer that the provider agency and the appropriate division share specific information regarding the Group Home with the IMMEDIATE NEIGHBORS; AND
4. An invitation for both local officials and neighbors to visit the home when it opens.

THE ARC-MORRIS UNIT, NEW JERSEY POSITION

THE ARC, MORRIS UNIT, Board of Directors carefully follows the recommended guidlines for the provider agency in the notification process after a site selection has been made. A registered letter or hand delivered letter is given to the municipality, usually through the Mayor, and the specific site selection where a contract of sale has been negotiated and signed is identified. At the same time, copies of the site selection letter are sent by the ARC to the appropriate Senators, Assemblymen, as well as the ARC Board of Directors and Residential Services Committee.

It has been the ARC experience that by this time the local authorities have been in communication with the ARC indicating whether or not they are interested in meeting with the provider agency for purposes of discussing and learning more about the group home project. If these plans have already been made it is assumed that the second offer suggested in the notification process has been complied with and again the ARC never feel the restriction of limiting its offer to meet with local official within any particular time period.

It is at this step in the notification process that the guidlines recommend efforts be made to be in touch with the specific neighbors in a community. The ARC Board of Directors has adopted a policy through its Residential Services Committee to use a variety of ways of assisting in compliance with this recommendation including a willingness to meet on an individual basis with neighbors to discuss questions that arise by telephone, to provide visitors to make home calls in the specific area and to encourage neighbors and public official to accept invitations to visit any of our already existing group homes, should they be interested.

It has also been the policy of the ARC, once a site selection has been made to arrange for a formal presentation to be made usually under the auspices of the Municipal Council structure to show slides of group home programs, to discuss the typical life styles of the group home program, to explain the staffing procedures and the way in which a home is funded and operated.

IT IS ALSO THE POLICY OF THE ARC to inform the municipality that although the home will be eligible for a tax exempt classification, since the ARC is the owner of the property, and the ARC is a 501C3 non-profit organization, that the ARC will provide a cash annual payment to the municipality in lieu of the tax exemption. Likewise, we have attempted to clarify the fact that although the property is owned by the ARC, it has a 100% conditional lien on it by the state funding capital grant program thus guaranteeing an ongoing monitoring and quality control mechaanism for future operations. In some cases, communities have requested that the DMR office assure the community that should the facility ever cease to be used for a group home for the mentally retarded, that it would be eligible to go back on the general market for a residence. All of these are efforts and policies the ARC-Morris Unit has used to help address the concerns that are raised in the local community concerning the operation of the homes.

FINALLY, THE ARC, MORRIS UNIT, works very hard to build a positive relationship with the local neighbors during the time in which the house is being renovated, and during the time in which the admission process is being developed. For example, in some townships the local township official themselves get involved with the cleaning and painting and renovations. In other townships, scouts and community groups take on specific projects. The ARC, in turn, gives wide, positive public relations visibility of these activities, again in an effort to communicate to the general public the worth and value of the community group home.

10:4-2.6 Group Home Citizens Advisory Board

(a) All provider agencies must have a Citizens Advisory Board with a minimum of seven members for the group home(s) it operates.

(b) The Citizens Advisory Board can be formed at any time but must be appointed within 60 days after a particular home has been licensed or contracted with.

(c) The Citizens Advisory Board shall be composed of interested individuals whose knowledge and expertise can contribute to the development of the home. Membership shall minimally include participation from each of the following groups:

1. Consumers of the sponsoring Division's services, with consumers including present and past recipients and the parents, guardians and siblings of such recipients.
2. Individuals from local community.
3. Key persons from the community civic and service groups; and
4. Professionals who can provide expertise in various fields.

(d) The appropriate division shall be notified of all appointments to the Citizens Advisory Board and any changes in the Board composition within 15 days. In specific cases, and with the approval of the division, a local Board of Directors associated with the provider agency may function as the Citizens Advisory Board.
(e) The provider agency may have more than one Citizens Advisory Board depending on the location and number of homes operated by the agency.
(f) The responsibilities of the Citizens Advisory Board will include, but not be limited to, the following:

1. Promoting community relations.
2. Encouraging the public/private sectors to provide competitive employment.
3. Recruiting volunteers.
4. Reviewing admission and discharge of clients against criteria for admission and continued stay.
5. Planning short and long range goals and objectives; and
6. Identifying community based services.

THE ARC-MORRIS UNIT, NEW JERSEY POSITION

THE ARC, MORRIS UNIT, through its Residential Services Committee has implemented the mandated Group Home Advisory Board in accordance with the guidelines and has already had regular meetings.

THE ARC, MORRIS UNIT, has developed its citizens Advisory Board in such a way that the Board will serve as a representative body of each of the group homes with the establishment of sub-committees for each of the specific homes established to be meeting in the local area. So far, we have been successful in recruiting neighbors and community people, clergy and political leadership on the Citizens Advisory Board. The Citizens Advisory Board is presently established in Morris Unit to include a chairperson, a secretary and with task force chairpersons.

IN THE 1985 THE CITIZENS ADVISORY BOARD GOALS AND OBJECTIVES have been identified to prioritize two major areas of concern. (1) the establishment of a Citizens Advocacy Program to be implemented for an enrichment of the individual clients of the group homes following the ARC citizens advocacy program (see special literature). (2) The second major goal is to train and establish a core of volunteers and neighbors who will assist the ARC Morris Unit in visiting neighbors of projected group homes to help share information at a personal level in the community as to what a group home program is all about. In addition to this the citizens advisory board is working cooperatively through the Residential Service Committee in the establishment of a new parent support group for the purposes of helping parents and family members begin the psychological and emotional preparation for their family members living independent in the community. This support group will be meeting at least quarterly and is open to all parents, brothers and sisters and family members who are interested in the community residential program. It is also open for members of the general community who may wish to be helpful in the implementation of a successful group home program in their community.

Association for Retarded Citizens Morris Unit New Jersey

P.O. Box 123, Morris Plains, New Jersey 07950 (201) 326-9750

WHAT IS A GROUP HOME LIKE?

The following is an attempt to share an understanding of "a typical day" by a family of six adult persons who are retarded.

The ARC, Morris Unit, is under contract with the New Jersey Division of Mental Retardation to operate community residences in various municipalities. These operational grants provide a full array of costs associated with a home's operation. The Morris Unit maintains a "night awake" staff" person and never are the residents ever without staff supervision. All staff are professionally trained by both DMR and ARC,usually hold college degrees and are persons carefully screened for their task. Concerns for integrity, kindness, and professionalism, yet a staff sensitive to the special need of adults seeking to develop independence and personal growth is the primary criteria for ARC employment.

See the ARC Group Home Brochure and Fact Sheet #1 and #2 for more information on the administration and contracts of the homes.

HERE, INFORMALLY, IS A "TYPICAL DAY" IN A GROUP HOME IN MORRIS COUNTY, NEW JERSEY.

Most of the residents usually awake for work independently or are awakened by staff arriving at 7:00 AM.

Some of the residents may require training and assistance in choosing appropriate clothing for the weather, some with completing daily personal hygiene skills. Staff is there to assist and train whenever needed and necessary, but residents are given the freedom to do all tasks as independently as possible.

All the residents have breakfast together. Just as in a family, there is a designated person to cook and one to set the table, but usually everyone pitches in and helps. Breakfast is a good time for staff and residents to discuss plans for the day.

After everyone has cleaned his own breakfast dishes and straightened the kitchen and dining room, staff will spend some time with each client individually going over what may need more work on their part. It could be a bed that needs to be a little less lumpy, hair that needs to be combed a little better, clothes that match or just a closet that needs to be straightened.

"WHEN YOU GIVE HELP YOU GIVE HOPE"

Member of the Association for Retarded Citizens of the United States, and the ARC, New Jersey

A non-profit organization — Membership and Contributions are Tax Deductible

Mornings are a hectic time but the final goal is to get the residents prepared for work. Some of the residents take public transportation daily to their work, so they may need a ride to their bus stop. These residents manage their own bus fare money.

The rest of the residents are picked up at approximately 9:00 AM by a van from the Adult Training Center that they attend during the day.

Of course, everyday is not the same. A week doesn't go by that some of the residents have doctor or dentist appointments. Staff will accompany the residents to these appointments in the house van. Some of the residents may be in a weekly speech therapy program. They have weekly appointments and speech homework that has to be worked on at the group home. Staff and residents alike will pitch in to help make a client more verbal.

While at their day programs, residents will engage in different activities. The higher functioning residents will go to an Occupational Training Center. Here, the work is what would actually be found in a "competitive employment situation". They get contract work packing various items and inspecting packages. The residents are paid a wage by the center, according to the work they do. Other residents go to the Adult Training Center where they work on personal awareness and practical art skills, such as cooking and cleaning, woodworking and ceramics. The work done in the Adult Training Center reinforces and adds to what the staff teaches the residents at their group home.

The residents return home from work at approximately 3:30 PM. Staff arrives on at 3:00 PM and will inspect the house to see what areas need special attention. In most homes there is a division of duties and the same is true in a group home.

We have a chore chart where each resident is assigned a certain task every week. One week a resident will be the cook, in charge of planning, shopping for and cooking all meals with staff supervision to insure proper nutrition and safety in the kitchen. There is also emptying of the garbage, cleaning bathrooms or general vacuuming of the house. All these tasks are very important to the residents and they will work hard to master the various skills required.

In addition to completing the chores, residents may also have special activities planned for the afternoon. They may be going bowling, roller skating with the Morris County Adaptive Recreational Program, (Mc'ARP) or to a dinner or movie club. There are self-advocacy meetings, or holiday parties or even just a simple game of soccer in the backyard with staff and other neighborhood residents.

By the time dinner rolls around, staff and residents alike are pretty hungry. We all sit at the dining room table together and eat dinner family style with food being passed around and the residents serving themselves. Dinner conversation usually revolves around the day's activities and plans for the evening.

Once dinner is completed and cleaned up with all the residents again pitching in to get it done, residents and staff will decide what needs to be done. One resident will be working on completing his/her laundry, one on finishing up a chore from earlier. Another one or two may need to take a trip to the store to purchase necessary clothing items or personal needs. On the weekend nights residents may want to do a special activity such as a movie, a local sporting event, bowling or roller skating. The staff discusses all residents requests and tries to formulate the most varied combination of activities.

After all evening activities and chores are completed, residents will shower and get ready for bed and make lunches for work the next day. Before bed, the residents can watch T.V. or discuss any problems or questions with staff. Residents will generally go to bed by 10 PM. Staff is there till 11 PM cleaning up loose ends and filling out all log books and paperwork. At 11 PM the night awake shift comes on. They will check the house through the night and finish up large chores that there was no time for during the day.

Working or living in a group home can be hectic at times, but then every home is like that. The residents truly enjoy the atmosphere of their home and the freedom it affords them to become more individualistic and the staff finds it very rewarding to work with these family members.

NJAC
NEW JERSEY ASSOCIATION ON CORRECTION
21 NORTH CLINTON AVENUE, TRENTON, NEW JERSEY

TESTIMONY BEFORE THE ASSEMBLY CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE ON THE SITING OF COMMUNITY BASED RESIDENTIAL FACILITIES

October 16, 1985

My name is Karen Spinner and I am Director of Public Education and Policy for the New Jersey Association on Correction. The Association is a not-for-profit citizens' group working to improve the criminal justice and corrections systems in New Jersey through direct services and advocacy. Our direct service programs include two halfway houses as well as a variety of counseling, employment assistance and referral services on an outclient basis.

Our first halfway house, Clinton House in Trenton, will celebrate its twentieth anniversary of service to offenders in 1986. Our second facility, Sanford Bates House in New Brunswick, has been operational for eleven years at two different sites. We are veterans of the facility siting conflicts that are under consideration here today and are still in litigation concerning our second facility.

I would like to share some of our perceptions regarding the schizoid approach of public policy toward the issue of serving the socially stigmatized in the community. There are few who would publicly disagree with the proposition that the mentally ill, developmentally disabled, physically handicapped, alcoholics, drug addicts, victims of domestic violence and adult and juvenile offenders should be cared for in the community. These people are a part of the community and have a right to participate in life as fully as they are able. The reality is that the public says "it's okay but not in my neighborhood" and elected officials tend to shy away from offending their public.

With respect to siting residential facilities for offenders, there is no set criteria that a provider must follow. These facilities are classified as boarding

EXECUTIVE DIRECTOR
James A. Hemm

DIRECTOR-PUBLIC EDUCATION & POLICY
Karen A. Spinner

BUSINESS MANAGER
Sonya A. Morgano

EXECUTIVE ASSISTANT-RESIDENTIAL SERVICES
Alan F. Fazekas

EXECUTIVE ASSISTANT-OUTCLIENT SERVICES
Angel M. Perez

PRESIDENT
Rev. David H. McAlpin, Jr.

ADMINISTRATIVE VICE PRESIDENT
Timothy Weeks, Esq.

TREASURER
Thomas P. Cook, Esq

SECRETARY
Nancy Hawkins

BOARD OF TRUSTEES
Maggie Aguero
Dona C. Bass, Esq
Frank A. Bolden, Esq
Winifred Canright
John R. Cipriano
Clarice Feinman, Ph.D
Charley Flint, Ph.D
Thomas P. Garrihy
Albert M. Gesler
Sylvia Herz, Ph.D
I. W. Hopkins
Rev. Gregory Jackso
Ed Martone
Craig A. Pasko
Lee Patterson
Sandra Ann Robins
William Sloane
Marshall Stalley
George Triola

Citizens Working Together for an Effective Criminal Justice System — Founded in 1961 as The Morrow Associa

homes and must conform to the standards set by the Department of Community Affairs. What is sorely lacking is a clear legal definition for a community residential facility that would provide a status for these facilities in land use law. Currently one has to deal with several state departments and with individual municipalities who utilize conflicting interpretations of what these programs are. This, in many instances has resulted in costly litigation.

The City of New Brunswick formed a Task Force to study this issue last year and a number of their recommendations make sense. First we agree that there should be a common definition of a community residence so that all parties clearly understand the facility being proposed. The confusion which currently exists benefits no one. There should be one state agency responsible for licensing community residences and for the promulgation of standard codes, rules and regulations. This agency would need to communicate clearly with the other state agencies who are responsible for the quality of services to be provided on site so that all necessary criteria is taken into consideration. The current mishmash of conflicting regulations serves no useful purpose and causes considerable delay as individual state agencies sort out their differences.

A decision to site a facility in a certain municipality should be made in consultation with the municipality and the community. However, all parties must deal with each other in good faith. The public deserves to learn about the proposed facility from its operator, not through half-truths and innuendos as so often happens when the issue becomes politicized. A public meeting would serve to provide accurate information to individuals in the community about the goals and proposed structure of a facility. Siting a community residence most commonly becomes an adversarial proceeding with the municipality and the operator expending money for litigation.

Municipalities should accept an affirmative obligation to provide for community residences in proportion to their population size. No one wishes to see all the community residences clustered in one location, e.g. a colony or ghetto of community residences. This is counterproductive to the goals of reintegration and mainstreaming. Land use plans should include a designation of appropriate areas for the siting of such facilities.

The state of confusion that exists currently about siting community residential facilities is unfair and discriminates against those who require specialized services to be able to fully participate in community life. There is no question that properly licensed and regulated community facilities are less costly and better for clients than large impersonal institutions.

For the offender population with which the New Jersey Association on Correction is primarily concerned, the utilization of community residences is particularly appropriate in helping an individual to gradually reenter the community. Correctional institutions by their nature are highly structured, and unquestioning conformity to the rules is encouraged. All responsibility for an individual's well being is shifted to the institution. Most parolees are ill equipped to make the myriad of daily decisions required when they are released a number of years later into a changed world. A period to transition in a community residential facility helps them make that adjustment under conditions of increasing freedom. This benefits the community as well as the individual parolee.

The New Jersey Association on Correction thanks the Committee for allowing us to provide insight on this issue and would be pleased to work cooperatively on this vital issue.

Statement to the Assembly Corrections, Health and Human Services Committee on Residential Programs in the Community - 10/16/85

Good Morning, Gentlemen. Thank you for the opportunity to address the committee on this very important issue of residential programs in the community. My name is Walter X. Kalman. I am the Regulations /Legislation chairman of the New Jersey Association of Community Residential Providers (NJACRP) and the Associate Executive Director of the Sussex County Association for Retarded Citizens.

The Providers Association, as NJACRP is often referred to, represents 41 agencies operating homes and providing other services to developmentally disabled clients in the community. These homes cover the range of residential settings -- group homes, supervised apartments, supportive living, private homes sponsoring individual clients -- and the spectrum of disabilities -- mental retardation, cerebral palsy, epilepsy, autism, blindness, deafness. These 41 agencies operate over 3/4 of all of the community residences under contract with the Division of Developmental Disabilities, providing for over 1000 clients. My own agency operates 6 residences for 43 clients, including a supervised apartment program for 11 clients and a barrier-free group home for 6 mobile, non-ambulatory clients, the first of its type in the state of New Jersey.

To say that the establishment of my agency's homes or the residences of any of the member agencies of the Providers Association has been difficult is a vast understatement. Yet each has persevered because we have seen the growth made by clients in community programs - growth only made possible by their ability to interact freely with family, friends, neighbors in a setting of freedom and independence unavailable to them in institutionalized settings. The pioneering law, P.L. 1978,c.159, which enables the development of community residences, places on all of us the responsibility to educate the citizens of each community, while working cooperatively with each community to establish homes which provide maximum opportunity for persons with developmental disabilities. The process for establishing these homes, as it currently exists provides that opportunity.

Assembly Corrections,Health and
Human Services -10/16/85

In 1982, when Commisioner of Human Services Albanese instituted guidelines for notification of municipal officials and state and local legislators, prior to the establishment of new homes, we took a long step forward in addressing the need for community education about developmental disabilities. At first, we all hesitated, citing the right of clients to live freely in the community. But we have complied, and the result has been to reduce the fears which would have hampered the growth of our clients and prevented them from receiving the maximum benefit of community living.

The process as it exists does work. Many of the agencies here today have opened homes under these new guidelines and have turned a hostile environment into a welcoming one. By incorporating concerned citizens into the process we have found some of the strongest advocates for the community residential movement. But it is a far cry between educating and involving the community and violating the rights of persons with developmental disabilities by alternate site selection. The person with developmental disablities must be afforded the same rights as any other citizen.

Before the establishment of the prior notification requirement, many agencies were voluntarily practicing their own prior notification process, realizing the benefit of community participation and support. My agency has always utilized a policy of prior notification and involvement of the communi and in our most recent programs we have been welcomed with open arms in new municipalities, an experience I am sure you will hear many times today. I am sure you realize that the communities where there has been resistence are the exception, not the rule.

I would be happy to answer any questions you may have about community residential programs, as will the member agencies of the Providers Association, so that you might hear the experiences from the source. Even our clients, many of whom are actively involved in self-advocacy, would be willing and able to talk about the impact community living has had on their lives.

Again, I thank you for the opportunity to address the Committee and extend our thanks for the support and cooperation we have enjoyed from your commit in the past and for the future.

arc Association for Retarded Citizens
Hudson Unit
114 - Clifton Place, Jersey City, N.J. 07304 201-434-7783

Patricia O'Donnell
President

Frank X. Caragher
Executive Director

COMMITTEE TESTIMONY
OCTOBER 16, 1985

The passage of Public Law 1978, Chapter 159 represents a commitment by this State to the developmentally disabled individuals who reside in New Jersey. This pledge assured these individuals the opportunity for a dignified and enjoyable life living in a regular environment. An opportunity to grow and share their life with peers in a family setting.

To assist the development of these programs, administrative procedures were established. These procedures allowed for formal notification of local officials and representatives when a licensed community residence was to be established in their municipality. A vehicle for open communication among all the involved parties.

The establishment of licensed community residences for the developmentally disabled is a lengthy and difficult matter. There are many hurdles and detours that need to be negotiated before we can reach a successful end. Through the present system we can achieve our goal and the goal of PL 1978, Chapter 159. This system works.

Your commitment to the developmentally disabled through licensed community residences is significant to their present and future welfare. Do not underestimate this issue.

We would like to share our experience with this committee on the selection of a site for a group home. When looking for a site we watch for a safe neighborhood, a healthy environment, and a structurally sound house. Access to social and health services, as well as transportation, are significant features in the final decision. This criteria for review of our new home is similar to any family looking for a new home. Types of housing, space requirements and architectual designs direct us into areas of each town where we will find more acceptable sites. During the period of time we are searching for a location, we establish and maintain lines of communication with interested officials. We stress open and honest dialog as a way to educate the general public.

In the most urban county of this state, we have established five group home sites within the last two years. We have

received public support from Mayor Cucci, Jersey City, and an offer of financial support to establish a program in Bayonne from Mayor Collins, Bayonne. We have enjoyed strong and open dialog with each municipality we have established a licensed community residence.

We are proud of our success and the services we provide through PL 1978, Chapter 159. We strongly endorse its continued use in its present form. As representatives of our State General Assembly you should be proud for establishing this legislation and opening the door to many new and happy experiences for the developmentally disabled individuals living in group homes.

Continue your commitment to these people and their families. We urge you to endorse our present system as fair and allow it to continue to function successfully.

Frank X. Cough

10-16-85

POSITION STATEMENT

on

STATE RULES AND REGULATIONS GOVERNING THE SITING OF GROUP HOMES

and

OTHER COMMUNITY-BASED RESIDENTIAL FACILITIES

before the

ASSEMBLY CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE

October 16, 1985

By John P. Scagnelli
Executive Director, ARC/NJ
99 Bayard Street
New Brunswick, New Jersey 08901
(201) 246-2525

8/X

We of the Association for Retarded Citizens of New Jersey view with great satisfaction the development of New Jersey's deinstitutionalization program which began in 1978. The Division of Developmental Disabilities has been instrumental in pursuing this policy, and in it has enjoyed our full support.

Modern social thought in the field of mental retardation relies strongly on the small community residence, as opposed to the large isolated institution. The former promotes normalcy and productivity, while the latter inevitably results in dependency and isolation.

Obviously, the State has an interest in the development of independence in persons in its charge. Generally speaking, the less dependent the person, the less dependent he or she may be on State resources. Group homes are a major step toward independent living. Thereby the State, the retarded person and society may benefit.

Deinstitutionalized persons often are enthusiastic about community residence. Frequently they feel their lives have just begun with admission to a group home. We feel that the most normal life possible is a moral right to which no one should be denied.

However, we must hasten also to point out the important pragmatic considerations involved. New Jersey is in the midst of compliance with the federal Intermediate Care Facilities for the Mentally Retarded program. Under it, New Jersey is receiving Medicaid maintenance payments for indigent residents of developmental centers. These Title XIX moneys are a major support for the institutions.

The federal program requires that large numbers of residents be deinstitutionalized in order to comply with physical space requirements for the remaining residents. Many millions of dollars have been invested in State institutions to comply with federal regulations. This situation has been the driving force behind our State's deinstitutionalization program. It is now more than half complete. Under favorable circumstances, 1989 could see completion of our State's eligibility for federal ICF/MR disbursements.

(cont'd)

However none of this could be accomplished without Chapter 159, P.L. 1978, the enlightened zoning law originally sponsored by Senate President Carmen A. Orechio. Chapter 159 grants to developmentally disabled persons, including the mentally retarded, the same basic right to live in the community in a home of their own choosing enjoyed by other citizens. It is in fact a civil rights law and should be viewed as such.

In our view any tampering with Chapter 159 could have disastrous consequences, both for mentally retarded people and the State. Retarded people could lose the one most important resource to their development and happiness. New Jersey could see impeded the deinstitutionalization movement on which millions of Federal dollars depend. Either development would be a major disaster.

The Orechio law does not need amendment at this time. It encourages most the small homelike residence which is most beneficial to its residents and fits in best with the community.

The regulations promulgated under the law incorporate safeguards against overconcentration contained in the law. Beyond that, the regulations contain strong provisions for prior notification of both municipal officials and State legislators of communities involved.

The Office of Resource Development in the Division of Developmental Disabilities, Department of Human Services, oversees licensing of community residences for the developmentally disabled, taking into account the various factors involved, including availability of necessary services and avoidance of undue concentration. Licensing of community residences for the developmentally disabled is coordinated with location of group homes for the mentally ill and shelters for victims of domestic violence. Thus the major categories of homes under the Orechio law are appropriately placed. The remaining categories are of a different character and should not be classed with those under the Orechio law.

The claim is often made that group homes depress property values and pose a threat to the community. However such claims are without factual basis. All evidence points to the fact that group homes once established are well received and pose no threat of any kind to the community.

(cont'd)

The Mental Health Law Project of Washington, D.C., has compiled a study of available research entitled, "The Effects of Group Homes on Neighboring Property - an Annotated Bibliography." Study after study in state after state, a total of twenty all told, reveal no depreciation in property values or deterioration of neighborhoods after establishment of group homes. Indeed, many neighbors who originally opposed group homes become enthusiastic supporters once they discover how carefully the homes are maintained and how well the residents behave. We have full confidence these experiences can be and are being repeated in New Jersey. A copy of the Mental Health Law Project has been made available to the Committee.

We emphasize that the resistance to group homes is a pre-establishment fear. All evidence points to its lack of substance. Education and information can help greatly to alleviate groundless fears. Group homes, when carefully planned as they are by the Division of Developmental Disabilities, are proven good neighbors and an asset to the community. Approximately 150 group homes are currently in operation without continuing problems.

We see no need for further legislation or alteration in the regulations at this time. The deinstitutionalization movement has been proceeding in an efficient manner. The United States Supreme Court has recently affirmed the right of mentally retarded citizens to live in the community (The Cleburne Case). Some friction is inevitable, but virtually all of it is pre-establishment. Once under way, group homes have proved to have no detrimental effect on the community. There have been no unfavorable incident attributable to them. New Jersey should be proud of the program which makes possible new and better lives for thousands of developmentally disabled persons.

Mental Health Law Project

2021 L Street NW Suite 800 Washington DC 20036 (202) 467-5730

THE EFFECTS OF GROUP HOMES ON NEIGHBORING PROPERTY AN ANNOTATED BIBLIOGRAPHY

Copies of these studies are available from the Mental Health Law Project, 2021 L Street, N.W., Suite 800, Washington, D.C. 20036-4909. Please send a check payable to the Mental Health Law Project for $.10 per page to cover costs of copying.

Boekh, J., Dear, M. and Taylor, S. Property Values and Mental Health Facilities in Metropolitan Toronto. XXIV Canadian Geographic (McMaster University) 270 (1980). 16 pages.

A comprehensive review of a systematic assessment of the effect of group homes on property value, looking at five mental health facilities in lower-, middle- and upper-class neighborhoods. (Four group homes and one outpatient clinic for the mentally ill). Selling price and turnover rate in the area of the facilities were compared with prices and turnover in areas without such facilities. The presence of mental health facilities did not affect sales price, sales activity or property values. The characteristics of a house (e.g., size and particularly number of rooms) had more influence on selling price than any other factor.

Breslow, Stuart. The Effect of Siting Group Homes on the Surrounding Environs. Princeton, N.J.: Princeton University (Nov. 1976). 33 pages.

This research study sampled six group homes, two halfway houses, a hostel, two Veterans Administration homes, four adult proprietary homes and an agency-operated boarding home. All were in White Plains, New York (a suburb of New York City). Breslow introduces the model used and obtained from the Philadelphia study by Michael Dear to support and compare his two research themes: (1) Does a group home have a disruptive impact on the neighborhood? and (2) does a group home threaten surrounding neighborhoods and decrease land value? Breslow summarizes his results as fairly inconclusive. He found that community residential facilities have no downgrading effect on the neighborhood, that facilities are in the same or better condition than their surrounding neighbors and that, in all but one of 16 cases, property value increased.

Caulkins, Z., Noak, J. and Wilkerson, B. The Impact of Residential Care Facilities in Decatur. Decatur, Illinois: Macon County Community Mental Health Board (Dec. 1976). 90 pages.

This study assessed the social impact of five community residential facilities on the surrounding neighborhoods in Decatur, Illinois. The Mental Health Board examined neighbors' attitudes and opinions toward the residents, who included mentally and developmentally disabled adults, socially disadvantaged adolescents and ex-convicts or parolees. Neighbors of the facilities expressed a significantly higher degree of approval for the facilities than did Decatur citizens in general. The Decatur Board of Realtors studied housing value and residential turnover in neighborhoods with residential care facilities. They found properties near these facilities to have the same value as properties in other neighborhoods.

City of Cleburne v. Cleburne Living Center, No. 84-468. Supreme Court Amicus Curiae Brief of National Conference of Catholic Charities, et al. 45 pages.

This brief supports the assertion that group home residents make good neighbors and do not negatively affect the safety or character of neighborhood property values. The brief also contends that restrictions on group homes for the ostensible protection of mentally retarded persons themselves, asserted by petitioners in their appeal to the Supreme Court, had no rational basis and were merely a pretext to exclude group homes.

City of Lansing (MI) Planning Dept. The Influence of Halfway Houses and Foster Care Facilities Upon Property Values. Lansing, MI: 1976. 45 pages.

The Lansing Planning Department compared five neighborhoods with group homes to similar neighborhoods that did not have group homes to determine the effect of group homes on property value. The selling prices of homes in the test area, both before and after the group home opened, were compared to selling prices in the control area. In four of five homes in the test area, the average sales-price ratio after the group homes was established was equal to or higher than the ratio for homes in the control neighborhood. The presence of a group home did not have any apparent affect on the number of homes sold.

Dear, Michael. Impact of Mental Health Facilities on Property Values. 13 Community Mental Health Journal 150 (1977). 8 pages.

Dear tested the hypothesis that mental health group facilities lead to declining property value in the surrounding areas. He studied 12 communities with group homes and 12 similar communities without group homes (in Philadelphia). He found a small increase in the number of transactions and no decrease in value.

PCK

Developmental Disabilities Program. Policy Analysis #11: An Analysis of MN Property Values of Community Intermediate Care Facilities for Mentally Retarded (ICF-MRs). St. Paul, MN: Developmental Disabilities Program, Department of Energy, Planning and Development (July 1984). 9 pages.

This analysis compares the property value of the year preceding vs. the year following establishment of a group home and then compares those findings with the property value of similar neighborhoods without a group home. Fourteen neighborhoods with group homes were sampled in Minnesota; the findings are consistent with other research on group-home impact: (1) Property-value changes are not related to the presence of a group home, and (2) the number or the timing of property transactions in a neighborhood is not related to the establishment of a group home.

Dolan, Lawrence and Wolpert, Julian, Long Term Neighborhood Property Impacts of Group Homes for Mentally Retarded People. Princeton, N.J.: Princeton University (November 1982). 68 pages.

This study analyzed market prices and turnover rates for properties neighboring 32 group homes (of 42 studied in 1978) in eight of the original communities. A survey was done to assess the condition of group homes relative to their neighbors. The updated study shows that (1) proximity of properties to a group home did not affect their market value; (2) establishment of group homes did not affect property turnover; (3) group homes were taken care of well; and (4) neighborhoods with established group homes have not been targeted for additional homes for retarded people.

Gardner, P., Pfaff, G. and Irwin, S. Community Acceptance of Group Homes in Ohio. Columbus, Ohio: Association for the Developmentally Disabled (1982). 29 pages.

The Association for the Developmentally Disabled in Columbus surveyed 24 neighborhoods with a group home. Three types of people were interviewed: group-home operators, neighbors and individuals with developmental disabilities. This report discusses the historical perspective of deinstitutionalization and the factors likely to lead to the opposition of group living arrangements, and provides recommendations for a community education program.

General Accounting Office. An Analysis of Zoning & Other Problems Affecting the Establishment of Group Homes for the Mentally Disabled. Washington DC: General Accounting Office (Aug. 1983). 78 pages.

This report discusses the effects that zoning and land-use policies have had in efforts to establish small group homes for

87X

mentally retarded and mentally ill people. Small group homes (4-16 live-in clients) in seven states were studied and national surveys conducted of group-home sponsors, local zoning officials and state MH/MR program directors. Consistently, the major obstacles in the development of group homes were found to be inadequate funding and unsuitable locations and facilities. Although zoning and land-use requirements are a factor, the federal Departments of Health and Human Services and Housing and Urban Development can facilitate the establishment of group homes by collaborating with state and local governments and private organizations to locate funds and ease administrative problems.

Glubiak, Peter G. Local Zoning & Residential Care Facilities: Conflicts & Solutions. Louisville, KY: University of Louisville (Law School Paper) (Fall 1983). 31 pages.

Glubiak looks at the conflict between local zoning ordinances and federal and state policy advocating housing for residential care facilities. He discusses judicial activism as an imperfect solution and examines the pros and cons of state legislation.

Goodale, Tom and Wickware, Sherry. Group Homes and Property Values in Residential Areas. 19/2 Plan Canada 154 (June 1979). 9 pages.

In Ottawa, 38 group homes were studied to determine if there were adverse affects on adjacent property values. Goodale and Wickware analyzed: (1) rate of turnover; (2) selling prices of properties closest to the group home vs. those further away; (3) rate of value appreciation; (4) length of time on the market; and (5) the percentage of asking price actually received. All results showed no adverse effects attributable to the establishment and presence of group homes. **Summarized in 11 Links 9 (May 81) (monthly publication of the National Association of Private Residential Facilities for the Mentally Retarded); Canada Research Looks at Group Homes and Property Values.**

Hopperton, Robert J. A State Legislative Strategy for Ending Exclusionary Zoning of Community Homes. 19 Urban Law Annual 47 (1980). 39 pages.

Hopperton discusses the trend of state legislatures to end exclusionary zoning, focusing on Ohio as a "home rule state." He outlines the basic goals of normalization, the barriers to achieving this goal, and presents "The Favorable Zoning Treatment" as a secondary goal. He suggests alternative approaches to favorable zoning treatment of group homes: litigation, local legislative reform and state legislative reform. Also included is the model zoning statute developed by the Commission on the Mentally Disabled of the American Bar Association.

Hopperton, Robert J. Zoning for Community Homes: Handbook for Local Legislative Change. Columbus, Ohio: Law Reform Project, Ohio State University (Nov. 1975). 27 pages.

In this jargon-free guide for local legislative change, Hopperton begins with a definition of family-care group homes. He discusses Ohio current zoning ordinances, recommends zoning treatment for both family-care homes and group homes, and follows with a checklist for the legislative process and a discussion of key legal issues.

Johnson, Dirk. "Taxes Cut for Neighbors of Home for Mentally Ill" The New York Times. April 11, 1985. 1 page.

This article presents an opinion about the action of the Greenwich, Connecticut tax review board, which reduced property taxes for nine neighbors of a halfway house for former psychiatric patients. Professionals interviewed fear the ruling might stigmatize mentally ill people. Greenwich real estate agents differ. One agent points out that because the facility is well kept-up its presence will not influence the current increase in values.

Kanter, Arlene. Recent Zoning Cases Uphold Establishment of Group Homes for the Mentally Disabled. 18 Clearinghouse Review 515 (Oct. 1984). 4 pages.

Kanter summarizes the shifting trend from institutionalization to community responsibility and notes that the key issue is balancing the interests of neighbors against the interests of those leaving the institutions. The three types of zoning ordinances preventing group-home establishment are outlined, as are two cases that have presented constitutional challenges to exclusionary zoning. Even though courts have upheld the rights of people leaving institutions, the article points out, that the need is still great to foster community acceptance of mentally disabled people and to provide a more organized and effective means of delivering services to them in the least restrictive environment.

Knowles, Eric S. and Baba, Ronald K. The Social Impact of Group Homes: A study of small residential service programs in first residential areas. Green Bay, WI: University of Wisconsin (June 1973). 52 pages.

This study examines three areas -- (1) neighbors' awareness and acceptance of group homes, through a random sample of telephone interviews in five neighborhoods with existing group homes; (2) residential turnover, through data from the city assessor's office regarding the number of housing sales and the values of purchased homes in areas with group homes; and (3) property value -- by researching zoning laws that concern group homes in every

city of more than 25,000 inhabitants in Wisconsin and Minnesota. Knowles and Baba found (1) that group homes have a negative impact on 20 percent of the immediate neighbors and that this rate decreases after the first block; (2) the proportion of homes sold before and after the group home was established remained the same, and (3) the house nearest the group home sold for 1.53 times the assessed value.

Kressel, Laurence. Exclusionary Zoning: The Unseen Threat. Chapter in R. Budson (ed.) New Directions for Mental Health Services: Issues in Community Residential Care, no. 11. San Francisco: Jossey Bass. 77 (Sept. 1981). 14 pages.

This report contends that those who promote deinstitutionalization and community care need to be aware of the local systems of land-use control in order to devise strategies to break down unreasonable zoning barriers. Kressel discusses the zoning system, its restrictions and the contitutionality of zoning ordinances. He also notes that legislatures and federal and state courts that have actively promoted normalization goals provide the forums for attacking exclusionary zoning.

Lauber, Daniel and Bangs, Frank S., Jr. Zoning for Family and Group Care Facilities. Chicago, Illinois: American Society of Planning Officials (March 1974). 36 pages.

Lauber and Bangs contend that integration into the community is the essential ingredient of successful treatment for residents of group homes, halfway houses and boarding homes because the community serves as a role model. They examine current zoning treatment, court decisions and public attitudes toward family and group-care facilities. On the basis of this information, they recommend zoning stragtegies to encourage such community-based facilities.

Lindauer, Martin and Tung, Pauline and O'Donnell, Frank. The Effect of Community Residences for the Mentally Retarded on Real-Estate in the Neighborhoods in Which They Are Located. Brockport, N.Y.: State University of New York at Brockport (August 1980). 8 pages.

To examine the prices of homes sold and the number of sales, seven neighborhoods in the New York State community were studied before and after the establishment of a group home. Two control groups were included. Results showed that the average selling price rose 9 percent one year after the group home opened. The report notes that the crucial time to inform, reassure, educate and support neighbors is three months prior to group home occupancy.

90X

Linowes, Lisa. The Effect of Group Care Facilities on Property Values. Pas Memo. Chicago, Illinois: American Planning Association (Nov. 1983). 5 pages.

Linowes reviews six studies conducted between 1966 and 1983. Five of the studies confirm the absence of any impact on property values. Only one of the studies showed a significant relationship between the presence of a group home and changes in property value. Linowes considers all the reports together to reach a conclusion, that careful planning can maintain the quality of the community and ensure effective delivery of services to clients.

Lippincott, Marcia K. "A Sanctuary for People": Strategies for Overcoming Zoning Restrictions on Community Homes for Retarded Persons. 31 Stanford Law Rev. 767 (April 1979). 17 pages.

Recommending specific strategies to enable a community home to succeed, Lippincott begins with an overview of the need for community homes for retarded people. She outlines her article to include the primary objective of group homes, the barriers of community resistance and zoning, the strategies to overcome zoning restrictions through advocacy and the need for long-term reform through legislative change at the state and local levels, including the elements necessary in an appropriate statute. She makes a plea for lawyers to take immediate steps so that retarded citizens can benefit from normal community living.

Louisiana Center for Public Interest. Impact of Group Homes on Property Values and the Surrounding Neighborhoods. 11 Links 1 (February 1981). 2 pages.

The Louisiana Center for Public Interest compiled significant findings from studies of group-home impact and used them to support two points: (1) that group homes had no appreciable effect on property value and on the turnover rate of housing in the neighborhood and (2) that establishment of a group home did not change the character of the neighborhood.

Mambort, Terence, Thomas, Elvia and Few, Rebecca. Community Acceptance: A Realistic Approach. Montgomery County, OH: Montgomery County Board for the Mentally Retarded and Developmentally Disabled (March 1981). Summarized in 11 Links 1 (July 1981) Ohio Studies Assess Community Acceptance of Group Homes. 48 pages.

This report is based on the results of a neighborhood opinion survey and a property-sales study monitoring the effects of seven group homes for mentally retarded or developmentally disabled people in an Ohio county. The professional appraiser who conducted the study was unable to find any evidence to indicate that group homes had an adverse effect on neighboring property values.

Perske, Robert and Perske, Martha. New Life in the Neighborhood. Nashville, TN.: Abingdon Press (1980). 73 pages.

Written for those interested in people with developmental disabilities, this is a well-organized book that explains what developmental disabilities mean today. Definitions, normalization principles, overcoming old stereotypes, neighborhood acceptance, and alleviating fears about zoning and property value are the general areas Perske and Perske cover. The last few chapters deal more specifically with the benefits of group homes and the friendships developed between retarded citizens and their neighbors. The book concludes with an observation that society is developing the good sense to see that handicapped people are as important as anyone else in society's advancement.

Riehecky, John. Survey and A Study: Least Restrictive Environment for Mentally Ill Citizens in Macon County. Illinois Department of Mental Helth and Macon County Community Mental Health Board (June 1980). 153 pages.

A study of the adult chronic institutionalized population of Macon County and survey of their needs for residential services revealed two major conclusions: (1) Nearly all of the 162 mentally ill adults surveyed may be considered as residing in overly restrictive environments, and (2) data show that that the 162 can be divided into six statistically different groups along a continuum of their need for dependent to independent living arrangements. An annotated bibliography of residential facilities and services is one of nine appendices.

Scott, Nancy and Scott, Robert. The Impact on Housing Markets on Deinstitutionalization. 7/3 Administration in Mental Health 210 (Spring 1980). 13 pages.

This study, utilizing census data for New Jersey, illustrates a methodology for identifying the amount and location of non-substandard, vacant-for-rent housing. The underlying problem is that the availability and appropriateness of housing in the community needs to be pointed out if deinstitutionalization is to become a reality. Scott and Scott note that 65.5 percent of the available units are located in physically and socially deteriorated neighborhoods -- ill-suited for those with mental and behavioral impairments.

Seltzer, Marcia. Correlates of Community Opposition to Community Residences for Mentally Retarded Persons. 89 Amer. Journal of Mental Deficiency 1 (July 84). 8 pages.

Forty-three community residences were studied to examine community opposition. Seltzer found that residences whose sponsors had conducted public education were more likely to encounter opposition than were residences that opened with little or no

advance notice to neighbors. The results show that opposition is very likely from communities that become aware of the residences shortly before they open. Opposition is less likely when the community becomes aware of the residence either after it has opened or more than six months before occupancy. The implications of these findings for policy and practice are also discussed.

Sigelman, C., Spanhel, C. and Lorenzen, C. Community Reactions to Deinstitutionalization: Crime, Property Values and Other Bugbears. Journal of Rehab. 52 (Jan./Feb./March 1979). 4 pages.

Community opposition to the establishment of community residential facilities (small group homes, halfway houses and independent living arrangements) is often grounded in misconceptions and stereotypes. Calling these misconceptions "bugbears," Sigelman, Spanhel and Lorenzen present information to prove that community-based residential facilities do not increase crime rates, decrease property value or alter neighborhood lifestyles in any way. In fact, despite initial fears and opposition, neighbors become more favorably inclined toward the idea of community-based living by mentally disabled people and more positive about the individual residents over time.

Stickney, Patricia (ed.). Gaining Community Acceptance: A Handbook for Community Residence Planning. White Plains, New York: Westchester Community Services Council (June 1977). 46 pages.

The purpose of this handbook is to assist in developing community awareness and acceptance for residential programs. Information is presented from agencies, consumer advocates and community groups. Suggestions for gaining community support are made in a practical, methodological outline.

Teplin, L. A. The Criminality of the Mentally Ill: A Dangerous Misconception. 142 American Journal of Psychiatry 593 (May 1985). 7 pages.

Data from 1,072 police-citizen encounters help to disprove the myth that mentally ill people are dangerous and likely to commit violent crimes. The information was collected to study the validity of that assumption. The data show that people exhibiting signs of serious mental disorder were not suspected of serious crimes at a rate disproportionate to their number in the population. The patterns of crime were similar for people with and without a diagnosis of mental disorder.

Wagner, Christopher and Mitchell, Christine. The Non-Effect of Group Homes on Neighboring Residential Property Values in Franklin County. Columbus, OH: Metropolitan Human Services Commission (August 1979). 44 pages.

Property values of homes in eight neighborhoods which included a group home were assessed for two factors: (1) time on the market and (2) sales price as a percentage of list price. Information was recorded for six months before and six months after the establishment of each group home. The results indicate that the location of the group home did not affect the surrounding properties' value either positively or negatively, as measured by the two indicators.

Wagner, Christopher and Mitchell, Christine. Group Homes and Property Values: A Second Look. Columbus, Ohio: Metropolitan Human Services Commission (August 1980). 32 pages.

Property values were studied in six neighborhoods with a group home. Data were compared from real estate transactions that occurred six months before and six months after the group homes were occupied. Four of the areas showed no statistically significant difference. The other two showed that properties' time on the market diminished after the group home was opened. Information on the ratio of sales prices as a percentage of list price showed no difference in four areas and increased price in the remaining two areas. **Summarized in 11 Links 11 (May 1981); Study Takes a "Second Look" at Group Homes and Property Values.**

Wickware, Sherry and Goodale, Tom. Promoting and Resisting Group Homes: The Property Value Issue. 7/4 Leisurability 24 (1980). 3 pages.

Examining 38 neighborhoods with a group home, Wickware and Goodale compared transactions on the basis of distance from a group home. Looking at five indicators, they found no evidence of adverse effects. Rather than continued debate on the property-value issue, they propose attention to siting and program development.

Wiener, D., Anderson, R.J. and Nietupski, J. 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 (December 1982). 5 pages.

Using comparable market analyses, professional realtors studied the "group home impact" on surrounding property values in two medium-sized Iowa communities. Their results indicated no negative property-value effect in six of eight cases. In the two

remaining cases, homes within a one-block radius of the group home sold at a higher price than properties not near a group home.

Wolch, Jennifer and Gabriel, Stuart. Spillover Effects of Human Services Facilities in a Racially Segmented Housing Market. Los Angeles, CA: University of Southern California (School of Urban Regional Planning) (March 1983). 20 pages.

Wolch & Gabriel evaluated the effect of community-based facilities on property values and charcter of the neighborhood. They looked at the effects of (1) residential facilities, (2) non-residential facilities and (3) non-residential services for people with mental health, alcohol and drug-related problems in both white and nonwhite areas in Oakland, California. Regarding property value they surveyed 769 residential facilties (criminal justice, multi-purpose adult and child/youth). Their results vary by facility type and racial housing submarket. Approximately 32% of the facilities were in the white submarket and 68% were in the nonwhite submarket. Although both child/youth and adult residential facilities adversely affect property value, the study also found property-value differences within facility types. (Comparatively speaking, child/youth facilities have a higher property value than the adult facilities.)

Nonwhite lower socioeconomic neighborhoods perceive public and nonprofit community services as positive amenities, Wolch and Gabriel assert. White submarkets were found to prefer private youth-recreation opportunities over public ones.

Wolch and Gabriel found results contraditory to 22 studies they examined, representing the mainstream of past research in this area.

Wolpert, Julian. Group Homes for the Mentally Retarded: An investigation of neighborhood property impacts. Princeton, NJ: Princeton University, unpublished manuscript (August, 1978). 94 pages.

A professor at Princeton, Dr. Wolpert studied 42 communities in New York State from May-August 1978. He collected data on group-home impact on property value and real estate transactions. He compared his findings of communities with group homes to a control group of communities matched by socio-economic, geographic and physical characteristics. He found consistent results in regard to property value and real estate transactions: (1) Property value increased (or decreased) the same percentage in communities with and without group homes; (2) proximity of neighboring properties to a group home did not affect their market value; (3) the immediately adjacent properties did not experience a decrease in property value; (4) establishment of group homes had no effect on property turnover. This is the complete study

and includes a literature review, a statement of objectives and goals, selection of sample communities, procedures, data sources, statistical analysis and sample neighborhoods.

This paper was prepared by Deborah Mueller for the Mental Health Law Project, 2021 L Street N.W., Suite 800, Washington D.C. 20036.

June 1985

ASSOCIATION FOR RETARDED CITIZENS • NEW JERSEY
99 Bayard Street, New Brunswick, N.J. 08901 201/246-2525

William Vogt
President

John P. Scagnelli
Executive Director

October 17, 1985

The Honorable George J. Otlowski, Chairman
Assembly Corrections, Health & Human Services Committee
State House
Trenton, New Jersey 08625

Dear Mr. Otlowski:

On behalf of the State Association for Retarded Citizens and its Local Units, I express my gratitude for the opportunity to communicate our views at the recent hearing by your Committee. We believe the hearing was a useful step in seeking an accommodation among all parties in smoothing the process through which community residence is achieved by mentally retarded persons.

I do not feel the hearing produced evidence substantial enough to warrant any change in Chapter 159, P.L. 1978. As you know, that law already prevents overconcentration in the categories of community residences under its aegis. The law is both fair and successful in providing homes for our people and protecting communities. As to the other categories of community residence, we cannot speak for the various agencies involved, but some change may be in order.

The regulations promulgated by the Department of Human Services are basically sound and successful. However, some refinements could benefit both the communities and homes. Notification of municipal clerks of intent to establish a home is warranted. We have always tried to involve neighbors in our plans, and regulations might so require. Neighbors should be notified promptly, and their fears and suspicions allayed.

The process through which deinstitutionalization is achieved is necessarily complex. However, the objective is so important that all concerned need make every effort to expedite it smoothly. With your help, this lofty goal may be advanced.

Sincerely,

John P. Scagnelli
Executive Director

JPS:mb

97X

TESTIMONY BEFORE THE ASSEMBLY

CORRECTIONS, HEALTH AND HUMAN SERVICES COMMITTEE

Review of State Rules and Regulations Concerning the Siting of Group Homes and Other Community Based Residential Facilities

Presented by

THE NEW JERSEY ALLIANCE FOR THE MENTALLY ILL

Carmela Lunt - N.J. AMI Housing Committee
and President, Project Hope, Morris County

October 16, 1985

I appreciate the opportunity to testify before this committee as it reviews the rules and regulations governing the siting of community residential facilities for the thousands of deinstitutionalized persons in the community who are recovering from mental illness.

I speak in behalf of the New Jersey Alliance for the Mentally Ill. N. J. AMI is composed of 20 family support and advocacy groups and represents more than 1,000 families, all of whom have mentally ill family members. N.J. AMI also is affiliated with the National Alliance for the Mentally Ill. I also am President of Project Hope, a non-profit corporation that is in the process of opening its first community residence in Morris County.

The overriding most urgent need for the deinstitutionalized mentally ill of this state is housing in the community. What is needed is a continuum of residential settings with varying levels of supervision that allows the recovering patient to receive the support services he/she needs to begin the slow and difficult road to self-sufficiency and independence.

Today I want to bring to your attention the problems that have been created by the state regulation mandating that municipal officials be notified before a residential home for the mentally ill is established.

At present there are under 1,000 community residential beds in the state for the thousands discharged yearly from psychiatric hospitals. When a community bed is not avail-

99x

able, they must remain in the hospital in a category called "discharged pending placement" or they can fend for themselves in a rooming or boarding home or on the street. This situation has produced the familiar revolving door syndrome.

The need for housing is well documented. We have no choice but to make it possible for those recovering from mental illness to return to the communities in which their families and friends live. They have the right, as we all do, to live in a residential community without being labeled or stigmatized. The prior notification policy embodied in the administrative regulations (N.J.A.C. 10:4) is a barrier to the establishment of community residences.

Although the expressed purpose of prior notification is to foster understanding through the provision of programmatic information to local officials and the community, in practice this regulation closes minds before education can begin and allows prejudices andmyths about the mentally ill to poison the community and stigmatize the client. It closes the door to dialogue and understanding.

In Morris County, the requirement that elected officials be notified by registered mail prior to the selection of a specific site meant that 39 municipalities would have to be notified since we were considering any town in the county that had a suitable house for rent. A second notification by registered letter also is mandated upon selection of a specific site. In addition, copies of both notifications

100X

must be sent to the appropriate State Senators and Assemblypeople.

The Department of Human Services' expressed goal in establishing community residences is to create a "normalized living environment" for their clients (N.J.A.C. 10:4-1.1). To require a notification process that puts the whole community on notice that the "mentally ill" are coming violates human dignity and delays the normalization process. It implies that something different, something that may be a danger is being considered. It violates civil and human rights by not taking into account the right to privacy that we all have, including the mentally disabled. Further, the procedure is counter-productive to the goal of fostering community understanding and makes it almost impossible for local officials to exercise any discretion in encouraging community support.

We are not advocating that the establishment of community residencesbe kept a secret. Each community has the right to know who is living within their borders. But we do object to the manner in which this information is given.

We recommend that the notification procedure be eliminated and that the Department of Human Services be charged with the responsibility for ensuring that the siting of community residences is carried out in a planned and open way with community officials consulted during the planning process. The planning should determine the need for community residences in each county based on the actual

population in each county. Local officials, in cooperation with the Department could then proceed to develop a specific plan for community education.

There are two bills in your committee which address issues that are essential to the successful administration of a state residential program. The first is A3632 that gives the Department of Human Services the responsibility for the development, licensing and regulation of community residences for the mentally ill. The second is A3418, the Family Care bill, that provides community-based training in lifeskills and intensive support services to residents of family care homes. We recommend the passage of both of these bills.

I want to thank you for listening and ask that you call on us if we can be for further help.

ASSOCIATION FOR RETARDED CITIZENS OF HUNTERDON COUNTY

84 Park Avenue
Flemington, New Jersey 08822
(201)782-7827

— United Way Agency —

October 17, 1985

Mr. Donald Price
State House Annex
Trenton, New Jersey 08625

Dear Mr. Price,

I asked to submit written testimony on Public Hearing, Wednesday, October 16, 1985 on review of State Rules and Regulations Governing the Siting of Group Homes. I attended the hearing but did not have 8 copies of this article which is testimony on behalf of change in attitude of neighbors and local government officials.

I respectfully submit the article for the committee's review.

Sincerely,

Joan Crawford
Executive Director

JC/rs
encls

Former foes of group home talk of good neighbors today

By J.J. DRAUTMAN
Staff Writer

CLINTON — Among the guests attending the fifth anniversary celebration at the group home for retarded adults Sunday afternoon was Robert Pierce.

Pierce was living across Leigh Street from the home when it was first proposed. "I was one of the neighbors who spoke out (in opposition) at Council meetings. I was the one with the biggest mouth," Pierce recalled. "I didn't want them. I thought I had a beef."

Pierce's attitude has changed. "I was as scared as anybody when they first came, but they're the best damn neighbors we have," Pierce said emphatically.

The father of three children now 6, 9 and 11 years old, Pierce summarized, simply: "There have been no problems. I was as prejudiced as anybody but they have convinced me. They are excellent neighbors."

Public Safety Director Mario Badini confirmed that "there have been no problems requiring th police since I've been here."

Like others in the quiet res dential area, Pierce was concern about the impact on proper values when the group home f six retarded men was proposed. had worked long and hard to g my house," he said.

In the five years the group hor has been in operation, fears abo depressed property values arou it have proven to be unfounde said Joan Minichini, the hom

Continued on page 10



(Photo by Brian Scho

Let Me Entertain You

Glenn Johnson provided some music while guests at the celebration of the fifth anniversary of the group hom Clinton ate lunch. Listening are, left to right, Dave Robbins, Robert Kukowski, Betty Moser and Gary Illov Johnson, Kukowski and Illovsky are residents of the home. It has caused no problems and is an "excel neighbor," says Robert Pierce, an outspoken opponent when the home was proposed.

104X

After 5 years near group home, neighbors say it has caused no problems

Continued from Page 1

director. She occupies an apartment in the house. "The house next door was put on the market and it sold quickly," she says. All of the houses on Helen Road, which is directly across from the group home, have been built since it opened and all sold at market value, Minichini adds.

Throughout the afternoon, other neighbors dropped in to help celebrate the home's anniversary. Like Pierce, many had been staunch opponents when the group home was proposed. Like Pierce, their attitudes have changed. Most also attended the home's first anniversary party.

Pierce first learned that the group home was being planned when his wife called him at work to tell him. "I was scared to death," he said. "My wife was hysterical."

One worry was that the home's residents would be a nuisance, Pierce recalled. "I don't want them — or anybody — wandering around my property. That has never happened. If they see me, or my children, they stop to say hello and that's it," he said.

"I'm not for or against group homes," Pierce said. "I have heard that there have been problems at others but there haven't been any here. This one is exemplary. The grass is always cut and their sidewalk is the first one shoveled when it snows. They do as good a job as anyone in the neighborhood," he said.

In Pierce's opinion, "The key is that they have to hold jobs and take care of themselves. They know if they mess up they have to go back to an institution."

The home's residents "pick up skills they could never learn in an institution," he added.

Minichini agrees with Pierce's assessment. "Some of the men had been in institutions for 15 years. Somebody told them what to wear, what to eat and what to do every day. Now they do things for themselves. They can walk to Krauszer's. They shop for food — with the staff. They do their own cooking, cleaning and mow the lawn.

"They keep the house much neater than I would expect six men to keep it," she adds.

After taking some responsibility for their lives by living in the home for five years, some of the residents are ready to move on to individual apartments and jobs in the community instead of in sheltered workshops or the Hunterdon Occupational Training Center, Minichini said. One of the six men is looking for a job, she said. Instead of tax burdens, "they will become taxpayers," she said.

Keeping the men in a group home is less expensive than keeping them in an institution, Minichini explained. That was one of the reasons for establishing them.

In addition to learning to care for themselves, group home residents are encouraged to acquire hobbies. One resident of the Clinton home has learned to play, and hook up, an electric guitar, "but not so loud it disturbs the neighbors," Minichini said. Another bowls in a league at a local lane.

"The state mandates how we run the home," Minichini noted. A thick manual covers every detail, including how clean the kitchen must be kept. To make sure the manual's provisions are followed, "we are regularly inspected," she added.

After five years, the home's repainted and the exterior was recently repainted. "State funding pays for that," Minichini said.

"We keep the yard nice. Neighbors occasionally borrow our tools," she said.

One question raised about group homes has been the salary of the staff. Concern has been expressed that, because of low pay, staff turnover will be great and conditions may deteriorate as a result.

"Salaries are low," Minichini said with a wry smile, "but that's common is social service work. We have good benefits. I have a fully furnished apartment in a nice house which is provided rent free. I doubt I will ever have a nicer place to live."

In addition to the group home's Hunterdon Association for tarded Citizens members, the nic on Sunday was attended residents of HARC's two o group homes in the county.

It was a quiet autumn aftern very unlike the heated evening Council meetings before the h opened. The home has not b discussed at a Council mee since it opened — except when annual donation in lieu of t arrives.

HARC promised to mak payment in lieu of taxes when home was being discussed. I the organization's other promi that one has been faithfully k Council was surprised this yea find the amount increased beca of inflation over the last five ye

"We didn't even ask," Ma



(Photo by Brian Schofie

Serve Yourself

Residents of the group home for six retarded men in Clinton prepared and served a meal for themselves their guests for the home's fifth anniversary party on Sunday. Residents in this picture are Aaron Vroom, hold a plate to the left, and Tom Krug, selecting some food on the right. Since moving into this house five years some of the residents have acquired the skills needed to live alone, says Joan Minichini, director of the home.

arc
Association for Retarded Citizens
Bergen-Passaic Unit

25 BROAD AVENUE, PALISADES PARK, NEW JERSEY 07650 (201) 943-1500

22 October 1985

Assemblyman George J. Otlowski
717 Convery Boulevard
Perth Amboy, New Jersey 08861

Dear Assemblyman Otlowski:

With reference to the Assembly, Corrections Health and Human Services Committee that held a public hearing to review State rules and regulations governing the location of group homes in communities, I was unable to present my testimony that afternoon. Therefore, I am enclosing this for your information.

The Association for Retarded Citizens of Bergen and Passaic Counties established New Jersey's first group home in 1971 and, over the first nine years of operation, more than 45 former residents of State schools were successfully placed in the community. Between 1980 and 1982, the Association for Retarded Citizens opened four additional residences in Hackensack, Passaic, Fair Lawn and Teaneck. In 1983, our Association for Retarded Citizens was asked to open New Jersey's first group home for individuals who have the dual diagnosis of mental retardation and mental illness. Our Association for Retarded Citizens followed the Department of Human Services guidelines on Prior Notifications and several towns were contacted regarding our interest in securing a residence. When a house was located, a letter was sent to the Mayor of Tenafly informing him of our interest and explaining our program of services.

Within two days, the Mayor called and we spoke about the program for nearly 45 minutes. The Mayor invited myself and the staff to appear before the Town Council at their conference meeting. After informing the Council members about the proposed program and answering several questions, the Mayor and Council members wished us well and thanked us for attending the meeting. Since 1983 this program has served as a model for several other residencial projects and continues to serve former residents from Greystone and Bergen Pines.

106X

During 1984, we began our search for two additional facilities to be used as supervised apartments. During this period of time, we notified at least 20 towns and have not received any questions regarding intentions. However, we have lost four properties due to the excessive time frame required by the Department of Human Services and the Division of Developmental Disabilities in securing final capital grants approval. In Bergen County with home prices rising at the rate of 2% per month, it is a sellers' market and owners can get their price and then some. Any additional delays imposed by the regulations will adversely affect future group home developments.

We are currently using the Human Services procedures to help secure a property in Bergen County for a supervised apartment for developmental disabled adults. It is our opinion that there is a significant difference between one of our community residences and the health care facilities, correctional facilities or halfway houses for drug addits and alcoholics that have been included in the proposed revised legislation. Consideration should be given to separate small group homes for developmental disabled adults from regulations that should be imposed on health and correctional facilities.

The Association for Retarded Citizens of Bergen and Passaic Counties remains committed to providing additional residential opportunities. The current regulations appear to be fair to both the municipality and those agencies interested in providing residential services.

Any significant changes in the current regulations can seriously jeopardize the future of community residential services throughout New Jersey.

Respectfully submitted by:

Richard Bonelli.

Richard P. Bonelli,
Executive Director

RPB:ec
cc: Assemblyman Richard F. Visotcky

TESTIMONY BY FRAN MAHER
7 FLINTLOCK DR.
WARREN, NJ 07060

OCTOBER 16, 1985

A valued ideal of our society as well as the hope of every parent is that each child, as they enter adulthood, will achieve the greatest measure of self-sufficiency of which they are capable in the context of a full and normal life in the community in which they live.

Neighborhood group homes enable our retarded sons and daughters to do just that. But neighborhood group homes can only happen if their start-up is ensured.

When my 23-year-old son Roland moved from our family home to his group home, he moved

- from lonliness to a small wealth of peer companionship, still in a family setting, still in a neighborhood.
- from a family transportation scarcity to a full schedule of leisure activities, with group transportation and chaperones, still in a family setting, still in a neighborhood.
- from a shortage of living skills instruction to a trained staff to help him master new tasks--laundry, housecleaning, cooking, yardwork, shopping, matching his own socks, still in a family setting, still in a neighborhood.

Roland was always a good neighbor, even a loved neighbor, where our family lives. I believe he is a good neighbor in his new home.

Roland has made intangible gains that are beyond price; a pace of life that suits his slower way of doing things; a new-found poise in bearing and speaking; and the pride of being in a home where he takes over more and more of the tasks himself.

Group homes are scarce. They're hard to start. I support DDD's current guidelines and regulations for opening group homes. Any change in state rules and regulations that make neighborhood group homes more difficult to set up will mean a severe contraction in opportunity for the retarded men and women and their families who are still waiting for their chance.

I know. Until last January, my son was on that long waiting list.

LEVY AND LYBECK
COUNSELLORS AT LAW
IDEAL PROFESSIONAL PARK
2333 MORRIS AVENUE
SUITE D-10
UNION, NEW JERSEY 07083
(201) 687-6800

E. ROBERT LEVY
MARK R. LYBECK
CLARK E. ALPERT
FRANK A. VITERITTO
ROBERT J. SAYPOL
MICHAEL J. GERON
PINCHUS D. RAICE

DONALD S. GOLDMAN
OF COUNSEL

TRENTON OFFICE
28 WEST STATE STREET
TRENTON, NEW JERSEY 08608
(609) 393-7129

PLEASE REPLY TO UNION OFFICE

October 28, 1985

Honorable George J. Otlowski
717 Convery Boulevard
Perth Amboy, New Jersey 08861

Re: "GROUP HOMES" HEARINGS

Dear Assemblyman Otlowski:

Union Township's Mayor, Michael Bono, asked me to send you the enclosed Complaint relative to the deficiencies in the existing law concerning group homes and the developmentally disabled. I believe that the Complaint is self-explanatory insofar as it points out many of the deficiencies in the existing law and regulatory system concerning these homes.

If your committee has any questions concerning this matter, please feel free to communicate with me at your convenience. I will be more than happy to provide you whatever other information we have or to participate with your committee in any way that might be helpful to you.

Very truly yours,

E. ROBERT LEVY

ERL:jm
Enclosure
cc: Mr. Michael Bono

LEVY AND LYBECK
COUNSELLORS AT LAW
IDEAL PROFESSIONAL PARK
2333 MORRIS AVENUE
SUITE D-10
UNION, NEW JERSEY 07083
(201) 687-6800

E ROBERT LEVY
MARK R LYBECK
CLARK E ALPERT
ROBERT J SAYPOL
MICHAEL J GERON
PINCHUS D RAICE

DONALD S GOLDMAN
OF COUNSEL

TRENTON OFFICE
28 WEST STATE STREET
TRENTON, NEW JERSEY 08608
(609) 393-7129

PLEASE REPLY TO UNION OFFICE

July 30, 1985

Clerk
Superior Court of New Jersey
Justice Complex
Trenton, NJ 08625

HAND DELIVERED

RE: Township of Union vs. State of New Jersey, et als

Dear Sir:

Enclosed please find an original and two copies of Complaint in the above matter. Please file the original and return a copy marked "filed" to our messenger. It is imperative that our messenger be provided with a docket number. Our check in the amount of $75.00 is also enclosed.

Very truly yours,

CLARK E. ALPERT

CEA:ms
Enclosures

REC'D. & FILED
SUPERIOR COURT
OF NEW JERSEY

JUL 31 1985

CP-4
JOHN M. MAYSON
CLERK

LEVY AND LYBECK
IDEAL PROFESSIONAL PARK
2333 MORRIS AVENUE, SUITE D-10
UNION, N. J. 07083
(201) 687-6800
ATTORNEYS FOR Plaintiff

Plaintiff

TOWNSHIP OF UNION, a municipality organized under the laws of the State of New Jersey

vs.

Defendant

STATE OF NEW JERSEY; IRWIN I. KIMMELMAN, ATTORNEY GENERAL, STATE OF NEW JERSEY; NEW JERSEY DEPARTMENT OF HUMAN SERVICES; GEOFFREY PERSELAY, ACTING COMMISSIONER OF HUMAN SERVICES; EDDIE C. MOORE, DIRECTOR, DIVISION OF DEVELOPMENTAL DISABILITIES (formerly the Division of Mental Retardation) OF THE DEPARTMENT OF HUMAN SERVICES; RICHARD WILSON, DIRECTOR OF MENTAL HEALTH AND HOSPITALS OF THE DEPARTMENT OF HUMAN SERVICES; NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS; JOHN P. RENNA, COMMISSIONER OF COMMUNITY AFFAIRS; BONNIE WATSON, CHIEF, BUREAU OF ROOMING AND BOARDING HOUSE STANDARDS OF THE DIVISION OF HOUSING, DEPARTMENT OF COMMUNITY AFFAIRS; VOLUNTEERS OF AMERICA, a/k/a VOLUNTEERS OF AMERICA OF NEW JERSEY; JOHN JONES (a fictitious name), the repre-

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION

UNION COUNTY

Docket No.

C 4092 85

CIVIL ACTION

COMPLAINT

112K

sentative of Volunteers of America having the greatest control over the establishment at 2292 Alpine Avenue, Union, New Jersey; OUR HOUSE INC.; JOHN DOE (a fictitious name), the representative of Our House, Inc., having the greatest control over the proposed establishment at 349 Trotting Road, Union, New Jersey; CLARA BRUNDIDGE, a/k/a CLARA BRUNDIGE, individually and as operator of an establishment located at 146 Atlantic Avenue, Union, New Jersey; LIZZIE M. KELLY, individually and as operator of an establishment at 278 Ohio Street, Union, New Jersey.

Plaintiff, Township of Union, having its address at c/o 1976 Morris Avenue, Union, New Jersey 07083, complaining of defendants, says:

FIRST COUNT

1. Plaintiff Township of Union (hereinafter "Union") is a municipality organized under the laws of the State of New Jersey.

2. Defendant State of New Jersey (hereinafter "State") is responsible for enforcement of the various State laws at issue herein, and is further named herein as a technical party in interest.

3. Defendant Irwin I. Kimmelman is the Attorney General of the State of New Jersey (hereinafter "Attorney General"), and as such is responsible for enforcement of the laws of this State, and is sued herein in his official capacity.

1138

4. Defendant New Jersey Department of Human Services (hereinafter "DHS") is a State agency with various responsibilities, including but not limited to the fields of mental retardation and mental illness under relevant provisions of N.J.S.A. Title 30. DHS in this regard includes both the Division of Developmental Disabilities (formerly the Division of Mental Retardation) (hereinafter "DDD") and the Division of Mental Health and Hospitals ("DMH").

5. Among its responsibilities, DHS is charged under N.J.S.A. 30:11B-1 et seq. (a statutory scheme essentially dealing with the mentally retarded), and regulations promulgated thereunder, to oversee and license "community residences for the developmentally disabled", as defined therein, and to supervise the "unnecessary concentration" of such homes as defined in N.J.S.A. 30:11B-5, which provides:

> "The geographical location of community residences for the developmentally disabled shall be monitored by the Department of Human Services. Through the granting or witholding of licenses the Department shall insure that such residences are available throughout the State, without unnecessary concentration in any area." (emphasis added)

6. DHS is also charged with the responsibility of avoiding concentrations of "community residences" violative of N.J.S.A. 40:55D-66.1, including (a) the limitation against community residences being within 1500 feet of each other, and (b) the overall numerical limitation of community residents within a

municipality. "Community residences" as defined in N.J.S.A. 40:55D-66.1 include homes for both the mentally retarded and the mentally ill.

7. DHS is either charged with, or has purported to assume the responsibility of, determining whether alleged "community residences" are in fact entitled to a purported zoning "exemption" under N.J.S.A. 40:55D-66.1.

8. Defendant Geoffrey Perselay ("Perselay") is the Acting Commissioner of DHS, and as such is charged with its supervision.

9. Defendant Eddie C. Moore ("Moore"), Director of DDD, is responsible for enforcing N.J.S.A. 30:11B-1 et seq. and other provisions dealing with the retarded.

10. Defendant Richard Wilson ("Wilson), Director of DMH, is responsible for overseeing all patient placements of the mentally ill.

11. Defendant New Jersey Department of Community Affairs ("DCA") is charged with licensing all rooming and boarding houses in New Jersey pursuant to N.J.S.A. 55:13B-1 et seq. Under the current regulatory scheme, DCA has undertaken certain duties relative to mentally ill persons residing in rooming or boarding houses, where they are frequently placed by regulatory authorities in this State.

12. Defendant John P. Renna ("Renna") is the Commissioner

of DCA, and as such is charged with its supervision.

13. Defendant Bonnie Watson ("Watson"), Chief of the Bureau of Rooming and Boarding Home Standards of the Division of Housing of DCA, is responsible for overseeing rooming and boarding homes.

14. Defendants State, Attorney General, DHS, Perselay, Moore, Wilson, DCA, Renna and Watson will sometimes be referred to hereinafter as "the State defendants".

15. Defendants Volunteers of America ("VOA") and John Jones ("Jones") (a fictitious name), the representative of VOA having the greatest control over the establishment at 2292 Alpine Avenue, are seeking to place and permanently house six mentally retarded persons at said location without zoning or other approval from Union.

16. Defendants Our House, Inc. and John Doe ("Doe") (a fictitious name), the representative of Our Homes, Inc. having the greatest control over the establishment at 349 Trotting Road, are seeking to place and permanently house six mentally retarded persons at said location without zoning or other approval from Union.

17. The VOA and Our House homes will in fact effectively operate either as (a) rooming or boarding houses, a prohibited use throughout Union, and/or (b) institutional uses, prohibited in the residential zones in which they are located. Neither will

operate as a family.

18. N.J.S.A. 40:55D-66.1 et seq. (hereinafter sometimes "§66.1") purports to exempt certain types of community residences for the mentally retarded and mentally ill from certain local zoning controls. However, neither boarding/rooming houses nor institutional uses are intended to be exempted from local zoning by §66.1; and they are not considered to be "community residences", a term which only applies to establishments housing families.

19. Defendant Clara Brundidge, a/k/a Brundige ("Brundige") is the owner and operator of an establishment at 146 Atlanta Avenue, Union, New Jersey.

20. The Brundige establishment contains nine residents, of which more than six are mentally ill persons located at said establishment pursuant to so-called "affiliation agreements" and/or "service contracts" with DMH and possibly others.

21. Defendant Lizzie M. Kelly ("Kelly") is the owner and operator of an establishment located at 278 Ohio Street, Union, New Jersey. The Kelly establishment appears to contain fewer than six residents.

22. The Brundige and Kelly homes are currently operating either as (a) rooming or boarding houses, a prohibited use throughout Union, and/or (b) institutional uses, prohibited in the residential zone in which they are located. In fact, both

establishments are officially licensed by DCA as so-called "Class C Boarding Homes", which call for the operator, who has limited qualifications at best under applicable regulations, to exercise substantial control over the lives of the mentally ill persons located thereat because of what can best be described as an abdication of responsibility by the DHS to provide professional supervision.

23. The VOA establishment has received certain purported approvals from DHS but has not commenced operations.

24. The Our House establishment has applied for certain approvals from DHS but has neither received such approvals nor commenced operations.

25. The Brundige and Kelly establishments are currently operating, albeit unlawfully for the reasons noted herein.

26. Upon information and belief, VOA, Our House, Brundige and Kelly may claim immunity from local zoning regulation under §66.1. However, none of these uses is entitled to such immunity, for the following reasons, further amplified below:

(a) They neither comply with, nor fit within the definitional sections of, §66.1.

(b) Even if arguendo they did, the cited law is invalid.

27. Certain of the establishments cited above also violate §66.1 by being located within 1500 feet of each other,

specifically, Kelly, Brundige, and Our House.

28. In fact, in none of the instances cited has a formal or rational determination been made by any of the State defendants (nor by any other official) as to the "unnecessary concentration" criterion of N.J.S.A. 30:11B-5.

29. And in none of the instances cited has DHS or any other agency made any attempt to consult with the Township of Union as to whether the cited uses comply with either §66.1 or Title 30, particularly as to whether they are unnecessarily concentrated under N.J.S.A. 30:11B-5--or what the effect of such uses are upon Union or its residents.

30. Indeed, no such rational determination or decision-making process is possible under the current regulatory structure because of the absence of (a) any regulation defining either "unnecessary concentration", or "area", as contained in N.J.S.A. 30:1B-5, or (b) any centralization of responsibility on these issues within DHS.

31. The cited uses in Union are in fact unnecessarily concentrated in the relevant geographical area; i.e., within the community. Indeed, the number of homes in Union exceeds the number in the vast majority of communities within the State. Moreover, the lack of statutory or regulatory safeguards creates a substantial risk of additional concentration of such homes in Union in the future without effective notice or a hearing being

afforded to the Township.

32. More specifically, certain defendants have commenced or are about to commence unlawful operations without any prior approval process as to conformity with applicable ordinances. Moreover, the absence of any hearing process at any level has precluded a rational determination by the State defendants, or any other official, as to compliance by the cited uses with relevant statutes. Furthermore, the absence of any coordinated supervision over such uses--even among the State defendants themselves--has contributed to causing statutory or ordinance violations in these and similar instances.

33. The cited establishments would be outside the purported protection of §66.1 in any event, because that statute requires that any use, in order to be permitted thereunder, must comply with "all requirements...for single-family dwelling units" (emphasis added). Specifically, the intent of 66.1, which must be interpreted in favor of the plaintiff municipality pursuant to New Jersey Constitution, Article IV, §VII, Par. 11, is to establish a specific type of State-mandated zone with respect to community residences which will adequately protect both the neighbors and the patients themselves, by providing both (a) a residential appearance and atmosphere and (b) the types of buffer and yard areas which are provided by municipalities with respect to single-family uses. This intent is designed to

benefit not only surrounding uses (so that the subject use does not appear exclusively out of character and institutional), but also the patients themselves, so that they have the closest possible appearance of a normal home-like environment. Thus, any non-conformity with respect to a use claiming §66.1 immunity destroys the purpose and intent of the legislation.

34. The premises at 349 Trotting Road do not comply with single-family residence requirements of the Union Township Land Development Ordinance (the "Ordinance"), and are otherwise violative of law, in the following specific regards, beyond those noted above:

(1) "Our House" will contain at least two separate housekeeping units, including two separate kitchens and other separate facilities, and will, thus effectively constitute two separate community residences in one house, a use not contemplated by law.

(2) The adjacent location of two such establishments, even if (arguendo) they each complied with the definitional sections of N.J.S.A. 40:55D-66.2, would violate the intent of the cited 1500-foot prohibition of N.J.S.A. 40:55D-66.1.

(3) The rear yard is of insufficient size to comply with the Ordinance. In this regard, a 25-foot rear yard setback is required in order to have a permitted single-family residential use under §604 of the Ordinance. At 349 Trotting

Hill Road, the rear yard is no more than 20 feet. Considering the cement patio, it may approximate 5 feet!

(4) The subject lot also fails to comply with the minimum lot depth requirement of 100 feet set forth in Ordinance §604; being 86 feet or less in depth, measured pursuant to that portion of Ordinance 200 which defines "lot depth".

(5) The subject building also encroaches upon the 25-foot front yard setback requirement of Ordinance §604 by several feet at the easterly side of the building.

(6) One or both of the garages located on the premises are below grade, which violates Ordinance §613K(1)(h).

(7) Upon information and belief, the premises at 349 Trotting Road also contains potentially dangerous electrical repairs not made in accordance with applicable codes and standards.

35. The VOA premises at 2292 Alpine Avenue do not conform to the requirements of Ordinance §604 for the following reasons:

(1) The front yard setback is 20 feet in lieu of the required 25 feet.

(2) The side yard setback is less than 5 feet in at least one location along the easterly border of the premises.

36. Both the Trotting Road and Alpine Avenue uses will violate various applicable State administrative regulations, including but not limited to exceeding the numerical limitations

of N.J.A.C. 10:44B-2.2 by allowing more than five disabled residents and/or more than four DDD "clients" in a single home.

37. As noted, the Brundige and Kelly uses, as boarding homes, inherently fall outside the intended definition of "community residences" contained in §66.1. Even if (arguendo) the Brundige use constituted a "community residence for the developmentally disabled" as defined in §66.1, such use is nonetheless unlawful because of the failure to apply for a conditional use permit despite the presence of nine residents--such conditional use application being required both by §66.1 and by Ordinance §§604 and 614E in any instance of "community residences" with more than six residents.

38. The Brundige establishment also houses four residents in the basement of the facility which is in violation of DCA's own regulations, specifically, N.J.A.C. 10:44A-6.31, as well as violating Ordinance §613R.

39. Each cited violation of law entitles Union to relief enjoining the subject uses under relevant statutory provisions (including N.J.S.A. 40:55D-18) and applicable common-law principles.

40. The subject unlawful uses also constitute nuisances subject to injunction by the municipality under applicable statute and common law.

41. Unless there is judicial intervention, the State

defendants will proceed to process--and the remaining defendants will proceed to seek and potentially obtain--further approvals, funding, improvements, patient transfers, licensing, and the like, despite the illegalities cited, thus improperly altering the status quo. Moreover, the cited illegalities will continue, to the severe detriment of both the residents of the illegal uses and surrounding residents.

WHEREFORE, plaintiff demands judgment as follows:

(1) Requiring defendants VOA, Jones, Our House, Doe, Brundige and Kelly to immediately cease their unlawful operations as described herein.

(2) For injunctive relief against all defendants prohibiting any further community residence approvals, funding, improvements, patient transfers, licensing or the like, at any existing or future location in Union Township, until:

(a) The validity and significance of the cited statutes can be adjudicated.

(b) Appropriate regulations can be adopted (i) defining the terms "unnecessary concentration" and "area" as set forth in N.J.S.A. 30:11B-5 and (ii) providing reasonable procedures for evaluating and implementing this legislative mandate in specific cases.

(c) Appropriate regulations can be adopted providing reasonable procedures for evaluating and implementing

the qualitative numerical and geographical limitations contained in §66.1.

(d) A hearing is held, on due notice to Union, adjudicating all relevant issues, including but not limited to these set forth in (b) and (c) immediately above.

(e) Defendants advises plaintiff as to the specific nature of the use being made at each of the subject premises.

(3) For costs, interest and attorneys fees.

(4) For such further relief as the court deems equitable, appropriate and just.

SECOND COUNT

1. Plaintiff repeats and realleges the allegations of the First Count as if set forth at length herein.

2. N.J.S.A. 40:55D-66.1 contains an ambiguity as to whether the geographical and numerical limitations contained therein apply equally to "community residences" (i) housing six or fewer and (ii) housing more than six.

3. The legislative intent (contrary to the express wording of the law), as evidenced in part by the legislative history, was to apply said limitations to both "six or fewer" and "over six", the purpose being to prevent excessive concentrations of such residents within a community regardless of the breakdown of residents by size of home.

4. The statute as worded fails to rationally implement this intent and is thus facially invalid. Assuming arguendo it were not, the foregoing interpretation is constitutionally required, since a contrary interpretation would be arbitrary and would frustrate the legislative purpose by permitting unnecessary concentrations within the Township. A contrary interpretation would also reflect an irrational classification and/or distinction, since permitting a multiplicity of "six or fewer" homes would achieve precisely the same evil (the evil which the Legislature sought to prevent) as would a smaller number of "over six" homes--namely, unnecessary concentration within a given community.

5. Union has a substantial interest in obtaining declaratory relief regarding the meaning of the subject statute, since community residences purporting to house six or fewer persons have in fact been located within 1500 feet of each other within the Township.

6. At the present time, there is no hearing procedure or other mechanism by which the concentration issues referred to are formally evaluated upon a request by an applicant to establish a community residence. In fact, in many or all instances, there is no formal application delineating the request for a zoning "exemption" under §66.1--nor any procedure for adducing such facts, upon adequate notice to the

municipality, which could arguably entitle the applicant to such an exemption.

7. The Legislature's clear intent in §66.1 was to permit municipalities to restrict the total population of community residents within the municipality. Yet a literal reading of that statute appears to forbid municipalities from denying (or even considering) approval of "six or under" community residences that would cause the "resident" population to exceed the permissible statutory limitations. Thus, the statute is inherently inconsistent. For this reason also, a literal reading of the statute is therefore irrational and, hence, unconstitutional, since it would defeat the Legislature's intent to forbid concentration in a given municipality.

8. As a consequence of the Legislature's drafting error, municipalities such as Union have been restricted from adopting ordinances directly regulating the numerical and geographical concentration of "six and under" community residences, while ostensibly being permitted to so regulate only those "over six." As a consequence, the "six and under" residences are proliferating without effective control over their concentration, to the municipalities' (and Union's) detriment.

9. Judicial intervention is thus needed to pass upon the statute and, if valid, to appropriately construe same to allow municipalities the same controls of "six and under" residences

as they have with respect to those "over six."

WHEREFORE, plaintiff demands the following relief:

(1) Declaratory judgment, pursuant to the Declaratory Judgments Acts, N.J.S.A. 2A:16-50 et seq., ruling that the geographical and numerical limitations of N.J.S.A. 40:55D-66.1 apply equally to "six and fewer" and "over six" community residences.

(2) Injunctive relief prohibiting any approvals, funding or the like by the State of purported community residences within Union, until §66.1 can be appropriately construed by this Court and Union is thereafter afforded a reasonable opportunity to adopt ordinances implementing such interpretation.

(3) Requiring the State defendants to establish a hearing mechanism, or, alternatively, a regulation establishing a centralized internal procedure, by which a formal determination regarding the concentration issue set forth in N.J.S.A. 40:55D-66.1 can be evaluated with respect to each application to establish a community residence; and, further, that specific criteria be adopted regarding the "unnecessary concentration" issue.

(4) For costs, interest and attorneys' fees.

(5) For such further relief as the Court deems equitable, appropriate and just.

THIRD COUNT

1. Plaintiff repeats and realleges the allegations of the First and Second Counts as if set forth at length herein.

2. The intent of §66.1 is to grant a zoning "exemption" to community residences of six clients or less since such homes are perceived to effectively constitute a "family" in some circumstances

3. In fact, the Brundige, Kelly, Our House, and VOA uses do not constitute families; they therefore do not qualify for any arguable zoning "exemption", and are unlawful uses for the reasons stated above.

4. There is a substantial danger of future unlawful approvals--and, consequently, the proliferation of unlawful uses of a similar type within the Township--based upon the apparent misinterpretation by the State defendants that §66.1 provides a zoning "exemption" for uses which do not constitute "families".

WHEREFORE, plaintiff demands the following relief:

(1) Declaratory judgment, pursuant to the Declaratory Judgments Act, interpreting §66.1 as granting zoning "exemptions", if at all, only to uses constituting families.

(2) Permanently enjoining the continuance or commencement of the Kelly, Brundige, VOA, and Our House uses.

(3) Permanently enjoining the State defendants from approving as a purported "community residence", any use which does not constitute a family.

(4) Costs, interest and attorneys' fees.

(5) For such further relief as the Court deems equitable, appropriate and just.

FOURTH COUNT

1. Plaintiff repeats and realleges the allegations of the First through Third Counts as if set forth at length herein.

2. N.J.S.A. 30:11B-5 is arbitrary and invalid in that it constitutes an unlawful delegation of responsibility to DHS. Specifically, that statute fails to provide a sufficiently definite standard to allow for administrative enforcement, containing instead the vague, indefinite, and constitutionally insufficient standards, "unnecessary concentration", and "area", neither of which is defined nor otherwise delineated through guidance afforded by the Legislature in the subject act.

3. Assuming arguendo that the legislative delegation under N.J.S.A. 30:11B-5 is sufficiently definite to allow DHS to interpret the meaning of "unnecessary concentration" and "area", DHS was nonetheless required to define those terms--and to provide for set procedures regarding the implementation of the statutory concerns evidenced in N.J.S.A. 30:11B-5--through the adoption of reasonable regulations defining those terms and

setting those procedures. Such need to adopt regulations springs not only from constitutional requirements regarding the need for definiteness in administrative determinations, and the need to avoid arbitrary decision-making by administrative officials who otherwise lack guidance as to the standards governing their administrative determinations, but is also required by applicable sections of N.J.S.A. Title 52, as well as applicable common-law principles.

4. Union has a substantial interest in adjudicating the foregoing, since the deficiencies noted have contributed to an unnecessary concentration of community-type residences within Union.

5. In fact, the Legislature intended the term "area" in N.J.S.A. 30:11B-5 to be tantamount to "community".

6. Moreover, with respect to the term "unnecessary concentration", the Legislature intended DHS, through appropriate regulatory implementation of N.J.S.A. 30:11B-5, to insure that community residences are widely dispersed throughout the State.

7. Beyond the failure to adopt regulations, the actual enforcement of N.J.S.A. 30:11B-5 by DHS has failed to comport with this legislative intent.

WHEREFORE, plaintiff demands the following relief:

(1) Judgment declaring N.J.S.A. 30:11B-5 invalid.

(2) Judgment declaring that no approvals or other processes taken pursuant to N.J.S.A. 30:11B-1 et seq. may be continued until such time as reasonable regulations are adopted by DHS defining the terms "unnecessary concentration" and "area"; enjoining the State defendants in this regard, and enjoining the continuation of the cited Union uses approved under the invalid procedures cited.

(3) Declaratory judgment, pursuant to the Declaratory Judgments Act, defining the term "area" to be tantamount to "community", and further declaring the Legislature's intent with respect to the term "unnecessary concentration" was "to insure that community residences are widely dispersed throughout the State", together with judgment requiring DHS to adopt regulations comporting with the foregoing legislative intent.

(4) For costs, interest and attorneys' fees.

(5) For such further relief as the Court deems equitable, appropriate and just.

FIFTH COUNT

1. Plaintiff repeats and realleges the allegations of the First through Fourth Counts as if set forth at length herein.

2. Under a literal reading of N.J.S.A. 40:55D-66.1, a conditional use application is required only with respect to community residences which have more than six residents, and not with respect to community residences having six or fewer.

3. The foregoing distinction is arbitrary for a number of reasons, must notably because it directly contravenes the legisative purpose underlying such applications, which was based upon a specific legislative finding that a "hearing before the Planning Board" is "necessary" (emphasis added)--i.e., to "provide the opportunity for the type of neighborhood educational effort which health and social welfare professionals acknowlege to be necessary".

4. The foregoing finding of legislative necessity applies equally regardless of the number of residents at a given community residence, since the Legislature has specifically found a "neighborhood educational effort" to be essential in order for a community residence to succeed--not only to allay the concerns of neighborhood residents regarding the type of use being placed in their midst, but also to protect the patients themselves from being placed into a potentially hostile environment because of the failure to apprise the community and its residents of the nature of the use and its purported compatibility with the community. No viable distinction exists as to the size of the residence with respect to this legislative purpose.

5. The Legislature has also failed to provide any alternate mechanism for a hearing to serve the same function, in lieu of the suggested planning board hearing.

6. As a consequence, not only are the uses themselves unregulated; but in addition, local residents are not in fact informed as to the nature of the proposed uses, thus resulting (as has actually occurred in Union) in unnecessary disharmony between the proposed uses and such residents, thereby defeating this key legislative purpose.

7. The only constitutionally viable interpretation of §66.1, therefore, would be one that requires a conditional use application in both contexts, i.e., both homes "six and under" and homes with "over six".

WHEREFORE, plaintiff demands the following relief:

(1) Judgment declaring N.J.S.A. 40:55D-66.1 to be invalid.

(2) Declaratory judgment, pursuant to the Declaratory Judgments Act, interpreting §66.1 to require a conditional use permit application in the context of community residences containing six and fewer residents, as well as those containing more than six.

(3) For costs, interest and attorneys' fees.

(4) For such further relief as the Court deems equitable, appropriate and just.

SIXTH COUNT

1. Plaintiff repeats and realleges the allegations contained in the First through Fifth Counts as if set forth at

length herein.

2. As noted, N.J.S.A. 40:55D-66.1 purports to grant zoning "exemptions" to certain categories of uses.

3. Pursuant to those "exemptions", municipalities are purportedly disabled from exercising the zoning and planning functions which have been delegated to municipalities by the New Jersey Constitution, specifically Article IV, §VI, Par. 2, with the consequence that community residences can be, and are in fact located irrationally at inappropriate locations within municipalities, as with some or all of the cited Union uses.

4. Not only is the zoning and planning function thus unconstitutionally and irrationally withheld from the municipalities, but in addition, such functions have not been re-delegated to any substitute agency or other entity.

5. As a consequence, certain classes of uses--viz., "community residences"--are being haphazardly permitted without the exercise of any zoning or planning function either by a municipality or by any substitute authority (assuming arguendo the power to substitute for the municipalty's authority in this regard).

6. The statutory scheme embodied by §66.1 therefore violates the cited section of the New Jersey State Constitution, in addition to contravening other applicable common-law and State and federal constitutional principles.

7. Alternatively, §66.1 can only be construed as valid to the extent it mandates inclusion of true "family" uses within a residential zone; uses not qualifying as families may not constitutionally (under the provision cited) be mandated for inclusion within residential zones.

WHEREFORE, plaintiff demands the following relief:

(1) Judgment declaring N.J.S.A. 40:55D-66.1 et seq. to be invalid.

(2) Alternatively, declaratory relief with respect to paragraph #7 of this Count.

(3) For costs, interest and attorneys' fees.

(4) For such further relief as the Court deems equitable, appropriate and just.

SEVENTH COUNT

1. Plaintiff repeats and realleges the allegations contained in the First through Sixth Counts as if set forth at length herein.

2. In the context of each decision to approve a community residence within a municipality, that municipality--here, Union--is so significantly affected as to be entitled to a hearing to determine relevant adjudicative facts, in accordance with the due process constitutional principles enunciated in Cunningham v. Department of Civil Service, 69 N.J. 13 (1975), as well as relevant provisions of N.J.S.A. Title 52.

3. Relevant adjudicative facts, which must be considered in the context of each application to approve a community residence, include, but are not necessarily limited to:

(a) Whether the use under consideration qualifies as a "community residence" under either Title 30 or Title 40, N.J.S.A., including but not limited to whether it will operate as a family.

(b) The number of residents who will be placed in the facility.

(c) Whether approval of the use under consideration, at the specific location proposed, would result in "unnecessary concentration" in the relevant geographical "area" or community.

(d) Whether, if the proposed use in fact constitutes a "community residence" as defined, its addition to the community would violate either the geographical or numerical limitation set forth in §66.1.

4. Because the decision-making process impacts so strongly upon municipalities (here, Union), and because Union is constitutionally entitled and mandated to consider applicable zoning and planning criteria in this context, such hearing must, as a matter of substantive due process with respect to both the Township and its residents, include not only the express statutory issues discussed above, but also the zoning, planning and other impact of the proposed use upon the Township and its

residents.

5. There is no adequate substitute procedure being employed by the State defendants to adjudicate these issues or to adequately protect the municipality's substantive and procedural due process rights.

6. Absence of the required hearing has in fact resulted in substantial harm to the plaintiff, by allowing the creation of uses under the guise of §66.1 which do not comply with that statute nor with the other limitations noted.

7. There is also substantial likelihood of additional such uses being approved by the State defendants without such required hearings.

WHEREFORE, plaintiff demands the following relief:

(1) Declaratory judgment, pursuant to the Declaratory Judgments Act, ruling that a hearing must be held concerning the issues noted above in the context of (i) any approval of a community residence under §66.1, (ii) any approval pursuant to N.J.S.A. 30:11B-1 et seq., and (iii) any approval of an affiliation agreement service contract, patient or client placement, or other approval relating to mentally ill persons.

(2) Permanent injunctive relief against the approval, funding, transfer of patients to, or the like, of any community residence under either Title 30 or Title 40, until such a hearing is held with respect to each such application or request

for approval.

(3) Judgment declaring the cited statutes to be invalid in whole or in relevant part.

(4) For costs, interest and attorneys' fees.

(5) For such futher relief as the Court deems equitable, appropriate and just.

EIGHTH COUNT

1. Plaintiff repeats and realleges the allegations contained in the First through Seventh Counts as if set forth at length herein.

2. N.J.S.A. 40:55D-66.1 et seq. is arbitrary and therefore invalid under applicable due process and other constitutional principles. Aspects of arbitrariness in this regard include, but are not limited to:

(a) The Legislature's failure to conduct hearings or the like to verify the suppositions of fact made in enacting the legislation, many of which were questionable, and to determine other relevant fact issues.

(b) The Legislature's reliance upon arbitrary planning decisions. In this regard, no justification appears for mandating community residences in single family zones; location in multi-family zones would clearly appear preferable in order to achieve the legislative goals and to better achieve zoning and planning harmony.

(c) §66.1 represents a simplistic, overbroad, "shorthand" approach to a complex matter calling for legislative sensitivity and ingenuity taking into account the rights of all, including municipalities, as has been done in other States.

WHEREFORE, plaintiff demands the following relief:

(1) Judgment declaring N.J.S.A. 40:55D-66.1 et seq. invalid.

(2) For costs, interest and attorneys' fees.

(3) For such further relief as the Court deems equitable appropriate and just.

NINTH COUNT

1. Plaintiff repeats and realleges the allegations contained in the First through Eighth Counts as if set forth at lenght herein.

2. The statutes cited above, and the regulatory structures and procedures which have arisen thereunder, fail to rationally or logically implement the legislative goals and ends underlying those statutory enactments. Such failures render the applicable statutory and regulatory provisions and procedures invalid as arbitrary and unconstitutional.

3. The cited legislation and regulations fail to rationally implement the legislative goals and ends in at least the following specific regards:

and violations of the limitations of §66.1 have proliferated, including the location of three purported "community residences" within 1500 feet of each other.

(b) The legislative intent underlying §66.1, as specifically reflected in its legislative history, was that "effective efforts should be undertaken to educate neighbors of such community residences of the purposes and character of the community residences, if the residences are to be successfully integrated in the communities"; in fact, the Legislature specifically found that the holding of a planning board hearing is a "necessary" "opportunity" for implementing such an educational effort. Notwithstanding, the statute irrationally fails to achieve this goal--intended to protect both municipalities and the residents of the community residences--by allowing for such planning board hearings only in the context of community residences containing six or more persons, notwithstanding the Legislature's declaration that such a procedure is necessary with regard to <u>all</u> such uses, regardless of the number of residents--the numerical distinction being unrelated to the purpose in this context.

(c) The legislative history underlying §66.1 also clearly demonstrates a legislative intent not to place in "community residences", "[individuals] who are likely to be harmful to themselves or the community"--to which end the

Legislature also intended "that such placement would be carefully monitored under State departmental licensing and approval procedures" (emphasis added), and that, thereafter, there would be adequate "supervision" of all such patients. In fact, the monitoring of individuals being placed into such homes is far from "careful"; nor do the statutes and regulations involved provide a reasonable means or procedure for insuring such "careful monitoring" or later "supervision". Deficiencies in this regard include but are not limited to:

(i) the failure to require professional psychiatric evaluation of each patient as a precondition for being released to a community residence. In this regard, case workers and others without true psychiatric training apparently pass upon the release of patients--the direct antithesis of "careful monitoring".

(ii) The failure to provide for qualitatively and qualitatively sufficient monitoring of patients once released. In this regard, some if not all patients are monitored and "supervised" by persons other than psychiatric professionals, as would rationally be appropriate; indeed, in many instances the DMH apparently relies entirely upon the DCA, an agency with limited or no psychiatric expertise, as the sole reviewing entity for purported "community residences" (establishments which are often simply boarding houses). And the DCA's lack of

expertise is in turn reflected in the casualness of their so-called "social evaluations"--which evaluations: (i) constitute the only arguable monitoring or direct supervision of patients, (as opposed to building inspections), (ii) are not performed by psychiatric professionals, (iii) include no true psychiatric evaluation, (iv) are essentially perfunctory, and (v) normally do not even involve direct contact with the patients themselves. Moreover, even those limited inspections which do take place are infrequent, scheduled no more often than once per year and often actually taking place even less frequently, which lengthy gaps of time (i) are patently irrational in view of the needs of virtually all such patients and (ii) thus preclude "careful monitoring" or supervision. This lack of monitoring and supervision has resulted in substantial abuses against the patients themselves (such as the apparent housing of four patients in the basement at the Brundige establishment, and other negative phenomena throughout the State), in addition to creating incompatible uses within municipalities by impairing the ability of community residences to function compatibly with surrounding uses.

(d) The Legislature's further intent as revealed in the legislative history of §66.1 was to avoid disrupting local planning and zoning as would occur by mandating certain uses at specified locations, because of the improper conflict of such an

approach with the hard-achieved "Municipal Land Use Law" then recently enacted. The Legislature nonetheless proceeded to irrationally defeat this goal by arbitrarily providing for conditional use permit procedures only in the cases of community residences exceeding six persons, exempting those with six or fewer, notwithstanding the fact that the identical land use and other concerns prompting the need for a conditional use permit for residences "over six" apply equally to those "six and under".

(e) The legislative history underlying §66.1 further indicates that it was intended to avoid "negatively affect[ing] neighborhood residential property values". However, the mechanisms chosen by the Legislature and the regulators are not reasonably designed to achieve these goals. First, the Legislature's conclusion in this regard was apparently based upon experience in other States having distinguishable statutory schemes, apparently including statutory schemes in the State of New York which unlike §66.1 do give the municipality input into the planning and zoning features of all proposed community residences, thus logically tending to minimize any negative effect upon property values.

Moreover, the failure to provide for a conditional use permit in the case of community residences containing six or fewer persons eliminates the very hearing which the Legislature

found to be "educational[ly] necessary", thus not only harming the patients for the reasons stated above, but also leading to a natural "fear of the unknown" by area residents that the Legislature specifically intended to avoid--a fear which causes a subjective but real negative effect upon property values, which effect would otherwise not occur in some or many instances if a hearing were held.

(f) The legislative intent, as discerned from the legislative history underlying N.J.S.A. 30:11B-1 et seq., included a strong desire that "[community] residences do not develop haphazardly". In fact, because of the poor statutory and regulatory structure noted, this legislative goal has been defeated.

(g) N.J.S.A. 40:55D-66.2 appears to evidence a legislative intent to require actual "licensure" not only of homes for the developmentally disabled, but also of homes for the mentally ill. [The Court in Piscataway Twsp. v. Concerned Citizens, 200 N.J.Super. 615 (App.Div.) has held to the contrary]. In fact, this legislative goal has been defeated by the absence of any licensure requirement under the regulatory scheme and procedures utilized by DHS.

(h) The legislative intent, as demonstrated in the legislative history to N.J.S.A. 30:11B-1 et seq., was for "appropriate regulations [to be] promulgated by the commissioner

145X

[of the Department of Human Services] to assure that essential life-safety, health and comfort conditions exist." In fact, the regulatory scheme which has evolved has sadly failed to implement this goal, for reasons noted above.

(i) The legislative history underlying both §66.1 and N.J.S.A. 30:11B-5 evidences a clear intent to authorize, as "community residences", only those uses which operate as and appear to be families. For instance, the Legislature specifically expressed its intent underlying N.J.S.A. 30:11B-1 et seq. to require a "home-like atmosphere". And the legislative history underlying §66.1 strongly indicates that the Legislature was basing its enactment upon the presumption that the "community residences" was authorizing would operate as families, relying in fact upon the then-recent holding in Washington Twsp. v. Central Bergen Community Mental Health Center, 156 N.J.Super. 388 (Law Div. 1978), that the type of community residence at issue in that case was a permissible "family". In fact, the statutory and regulatory structure which has arisen is not reasonably calculated to achieving this legislative goal of only mandating single-family zoning for family-type uses; many of the uses actually "approved", including those in Union, are not families. The consequences include harm not only to the municipalities but also to the patients, whom the Legislature intended to benefit from a family

atmosphere.

(j) The legislative history also demonstrates an intent that legal proceeding between municipalities and community residences be avoided. Unfortunately, by virtue of the State defendants' failure to provide for any screening process regarding qualification as a "community residence" before such uses are permitted to commence operations, such litigation is virtually guaranteed, because the unilateral determination as to whether the use qualifies under the complex statutory provisions is essentially left to the operator himself and is often mistakenly made.

(k) The Legislature intended that placement within a community be limited in all, or certain almost all, instances to persons arising from that community so as to maximize the possibilities of re-integration into the community. The regulatory structure which has arisen has defeated that intent.

(l) The Legislature, in joining together the mentally ill and mentally retarded in §66.1, intended at a minimum that the "unnecessary concentration" criterion of N.J.S.A. 30:11B-5 be considered whenever application is made for either type of residence--and that all such residences be considered in evaluating such concentration. The regulatory structure has improperly failed to so read these statutes in pari materia.

WHEREFORE, plaintiff demands the following relief:

147X

(1) Judgment declaring invalid §66.1, N.J.S.A. 30:11B-1 et seq., and applicable regulations adopted thereunder.

(2) Alternatively, declaratory judgment interpreting said statutes in a manner consistent with the Legislature's intent, and invalidating all inconsistent regulations and administrative procedures.

(3) For costs, interest and attorneys' fees.

(4) For such further relief as the Court deems equitable, appropriate and just.

ELEVENTH COUNT

1. Plaintiff repeats and realleges the allegations contained in the First through Tenth Counts as if set forth at length herein.

2. Defendant DES has a statutory duty to carefully monitor the placement of individuals within community residences, and to carefully supervise them thereafter with appropriate professional psychiatric face-to-face interviews. Defendant DHS similarly has a duty to carefully screen and qualify all operators and other to whom mentally ill and developmentally disabled persons are transferred, assigned, or "contracted". Defendant DES also has a duty to conduct such inspections and interviews with reasonable frequency, and to otherwise do all which is necessary to insure that all of the statutory objectives discussed above are implemented.

3. Defendant DHS has in fact disregarded and/or failed to implement these duties.

4. In many circumstances, DHS has wrongfully purported to "delegate" such duties not only to DCA but also to the essentially untrained home operators themselves.

5. Defendant DCA has also through unlawful agreement with defendant DHS, purported to "waive" a significant portion of its statutory obligation to inspect boarding/rooming houses, based upon numerical patient limitations directly violative of N.J.S.A. 55:13B-1 et seq.

6. None of the subject uses has in fact been subjected to adequate or reasonably frequent inspections, despite the State defendants' duty to do so.

WHEREFORE, plaintiff demands the following relief:

(1) Judgment requiring the State defendants to cause DHS to fulfill the aforecited duties.

(2) For costs, interest and attorneys' fees.

(3) For such further relief relief as the Court deems equitable, appropriate and just.

LEVY AND LYBECK
Attorneys for Plaintiff,
Union Township

Dated: July 31, 1985

By: E. Robert Levy

150X

OUR HOUSE, INC.

1823 Springfield Ave., New Providence, N.J.07974
Phone: 464-8008

OCT 31 1985

October 24, 1985

Assemblyman George Otlowski
511 New Brunswick Avenue
Perth Amboy, N.J. 08861

Dear Assemblyman Otlowski:

The Star Ledger, dated October 17, 1985, ran an article entitled, "Inquiry into Group Home Operations hears widely conflicting testimony." As a Provider Agency operating group homes for the developmentally disabled, we feel that it is important for you to be aware of our experience and views on the Prior Notification Process.

Our Agency has consistently followed the "Prior Notification Process" in the communities of Summit, New Providence, Berkeley Heights, Millington and Union. We have found that, in general, the public officials are supportive and the neighbors are fearful. We have always held educational meetings with neighbors to address their concerns, but we have found the most valuable and effective educational experience for the neighbors has been to become acquainted with their developmentally disabled neighbors and to witness their growth.

In the Municipality of Union, the Mayor had been notified of our intention to locate a community residence in Union, but chose to deny this fact publicly. Instead, the community residence for the developmentally disabled became a political issue. The Municipality was interested, not in education, but in what steps they might take to block our opening. There is confusion between programs for ex-convicts, drug addicts and the developmentally disabled.

It is important that the Prior Notification Process for community residences for the developmentally disabled and those for ex-convicts be addressed individually. Developmentally disabled individuals have committed no crime and present no danger to the community. The Prior Notification Process should reflect this important fact. A cumbersome Prior Notification Process only re-enforces the public's view that the developmentally disabled are to be feared and warrant special scrutiny.

I urge you, and your committee, to consider these recommendations before a final decision is reached on changing policies regarding procedures for "Prior Notification Process" for Group Homes for the developmentally disabled within the community.

Sincerely,

Rosemarie Seippel

Rosemarie Seippel
President

RS:lbw

CERTIFICATE OF NEED
APPLICATION AND REVIEW PROCESS

N.J.A.C. 8:33

Adopted by the Health Care Administration Board

September 12, 1985

Effective Date: October 7, 1985

NEW JERSEY STATE DEPARTMENT OF HEALTH

Certificate of Need Program

153K

SUBCHAPTER 1. GENERAL PROVISIONS

Purpose/Scope

The purpose of these rules is to identify procedures and policies for conducting Certificate of Need activities pursuant to N.J.S.A. 26:2H-1 et. seq. (1971 Health Facilities Planning Act), Public Law 92-603 (Section 1122 of the Social Security Act), Public Law 93-641 (The National Health Planning Resources Development Act of 1974), and the Health Planning and Resources Development Amendments of 1979 (Public Law 96-79). These rules may be amended as necessary to best implement the provisions of the State and Federal laws and to reflect changing economic and systemic conditions within the health care system.

Health Care Facilities, as defined by the above referenced statutes and laws, and described within these rules should direct all inquires regarding Certificate of Need to:

Certificate of Need Program
New Jersey State Department of Health
CN 360
Health-Agriculture Building
John Fitch Plaza
Trenton, New Jersey 08625
(609) 292-6552

In addition, before filing an application, applicants are also encouraged to contact the Health Systems Agency in the proposed service area to examine the relationship of the proposed project with the agency's plans, guidelines, and criteria. Applicants should refer to Exhibits 1 and 2 for information and assistance in determining how their proposed service area relates to the appropriate Health Systems Agencies. If the proposed service area overlaps more than one planning area, the applicant should work with each of the applicable agencies.

8:33-1.1 Introduction

(a) All inquiries regarding Certificate of Need policy and/or process, or the particular application of Certificate of Need regulations to a proposed service or facility, shall be directed in writing to the Certificate of Need Program of the State Department of Health.

(b) If a Certificate of Need is determined to be required, the facility or service representative shall be provided with the appropriate application forms and instructions for properly completing such forms by the Certificate of Need Program.

(c) These rules supersede the previously published regulations "Guidelines and Criteria for Submission of Applications For Certificate of Need" effective August 6, 1981.

8:33-1.2 Filing fees

(a) Below is the schedule of fees required when submitting applications for a Certificate of Need. Fees must be paid in full at the time applications are filed with the Certificate of Need Program. Certified checks, cashiers' checks or

money orders must be made payable to Treasurer, State of New Jersey. No cash or personal checks will be accepted.

Facility Category	Fee Required
Hospitals	$1,000
Nursing Homes	1,000
Residential Health Care Facilities	500
All other Health Care Facilities (for example, group homes for the mentally retarded, halfway houses, other homes for the care of those with special health problems)	500

(b) Projects as noted in N.J.A.C. 8:33-4 which require administrative review shall file, in accordance with the above procedure, the appropriate fee designated for the type of facility or service involved:

Hospitals	$ 500
Nursing Homes	500
All Other Health Care Facilites	250

8:33-1.3 General statements of public policy

(a) It is the public policy of the State that hospital and related health care services of the highest quality, of demonstrated need, efficiently provided, properly utilized, and at a reasonable cost are of vital concern to the public health. In order to provide for the protection and promotion of the health of the inhabitants of the State, promote the financial solvency of hospitals and similar health care facilities and contain the rising cost of health care services, the State Department of Health has been designated as the sole agency in this state for comprehensive health planning under the "National Health Planning and Resources Development Act of 1974" (Federal Law 93-641), as amended and supplemented. In this role the Department shall have the central, comprehensive responsibility for the development and administration of the State's policy with respect to health planning, hospital and related health care services planning, health care facility cost containment programs, as well as planning with all public and private institutions whether State, County, municipal, incorporated or not incorporated, serving principally as nursing or maternity homes, residential health care facilities, or as facilities for the prevention, diagnosis, or treatment of human disease, pain, injury, deformity or physical condition(s). All such institutions shall be subject to the provisions established.

(b) The Commisioner, to implement the provisions and purposes stated above, shall have the power to inquire into the accessibility to and availability of health care services and the operation of health care facilities and to conduct periodic inspections of such facilities with respect to the fitness and adequacy of the premises, equipment, personnel, rules and bylaws and the adequacy of financial resources and sources of future revenues.

(c) No health care facility shall be constructed or expanded, and no new health care services shall be instituted except upon application for and receipt of a Certificate of Need.

(d) No agency of the State or of any county or municipal government shall approve any grant of funds for, or issue any license to, a health care facility which is constructed or expanded, or which institutes a new health care service, in violation of established policy.

(e) No final arrangement or commitment for financing the development of a proposed Certificate of Need project shall be made unless a Certificate of Need has been granted.

(f) No Certificate of Need shall be issued unless the action proposed in the application for such certificate is necessary to provide required health care in the area to be served, can be economically accomplished and maintained, and will contribute to the orderly development of adequate and effective health care services. In making such determinations there shall be taken into consideration the availability of facilities or services which serve as alternatives or substitutes, the need for special equipment and services in the area, the possible economies and improvement in services to be anticipated from the operation of joint central services, the adequacy of financial resources and sources of present and future revenues, the availability of sufficient manpower in the several professional disciplines, the accessibility to and availability of health care services to low income persons, and such other factors as may be established by regulation. The Commissioner shall cause appropriate surveys and studies to be made concerning the need for health care facilities and keep current records and statistics thereon by designated areas or regions of the State.

(g) Recommendations concerning Certificate of Need shall be governed and based upon the principles and considerations set forth in these rules or applicable state policy.

(h) In case of an application by a health care facility established or operated by any recognized religious body or denomination, the needs of the members of such religious body or denomination for care and treatment in accordance with their religious or ethical convictions may be considered to be public need.

(i) The Commissioner shall establish minimum requirements and the needs for health care facilites in each area or region of the State, taking into consideration the recommendations of the Health Systems Agencies and the Statewide Health Coordinating Council. Such requirements and needs are specified in detail in Department of Health Planning Regulations adopted pursuant to N.J.S.A. 26:2H-1 et.seq. and the New Jersey State Health Plan and State Medical Facilities Plan which are the standards, guidelines and criteria for the review of Certificate of Need applications. However, in every case, it is the responsibility of the applicant to adequately and appropriately demonstrate the need for the proposed project. It is not incumbent upon the review process to demonstrate lack of need. All applications shall be reviewed for conformance with the regulations which are in effect at the time the application is accepted for processing.

(j) Application for a Certificate of Need shall be made to the Department and shall be in such form and contain such information as the department may prescribe. The Department shall charge a non-returnable fee for the filing of an application for a Certificate of Need. The fee will be established by regulation. Application forms are available from the Certificate of Need Program.

(k) Using the documents stated at N.J.A.C. 8:33-1.3(i), as well as other applicable criteria, the Health Systems Agencies and the Statewide Health

Coordinating Council shall provide full consideration of each application submitted to them and shall develop recommendations thereon. Such recommendations, whether favorable or unfavorable, shall be forwarded to the Commissioner within 90 days of the date the application was accepted for processing by the Department of Health.

(l) Certificates of Need shall be issued by the Commissioner based upon criteria and standards established by the Commissioner.

(m) Pursuant to N.J.S.A. 26:2H-9, no such Certificate shall be denied without the approval of the Health Care Administration Board. If the Commissioner's decision is contrary to the recommendation of the Statewide Health Coordinating Council, the Health Systems Agency or the applicant, that body shall be granted the opportunity of a fair hearing. The Commissioner or his designee shall furnish the board in writing his recommendations with supporting reasons. Any applicant who has a Certificate of Need in any appeal or hearing status may not file a similar Certificate of Need application in the same service area while such appeal or hearing is under consideration.

(n) Requests for a fair hearing are discussed in N.J.A.C. 8:33-3.6(g).

(o) The sale of approved Certificates of Need is prohibited. Ownership of approved Certificates may be transferred only under the conditions identified at N.J.A.C. 8:33-2.10(e). The ownership of an existing licensed health care facility, beds, services, or equipment is transferable as described at N.J.A.C. 8:33-2.10.

(p) A Certificate of Need shall be valid for one year from the date of issue. An extension of the certificate may be considered pursuant to criteria defined at N.J.A.C 8:33-2.14(a)1 and 2.

(q) All approved projects shall be monitored by the Department of Health and other appropriate agencies to assure compliance with stated policies, all standards (including appropriate construction codes), the approved application's contents, approved costs, and all conditions of approval. Whenever conditions are attached to an approved application, the applicant must file a progress report on meeting such conditions with the Certificate of Need Program annually for the first two years of the project commencing with the receipt of a license. The Department of Health may require additional reports if they deem these reports to be necessary.

(r) Any conditions placed on a Certificate of Need approval shall become part of the licensure requirements for that approved facility. Failure to comply with approved Certificate of Need conditions or reporting requirements may result in licensure or rate action by the Department and may be considered by the Department when reviewing subsequent Certificate of Need applications.

(s) No Certificate of Need application will be approved from any applicants with existing non-waiverable violations of licensure standards which, as determined by the Department, threaten the life and safety of patients. An exception will be in the case of applications submitted for the purpose of correcting recognized major licensure deficiencies. An exception to this provision may also be granted for applications submitted for the closure or substantial reduction of underutilized beds, services, or equipment.

(t) The Certificate of Need review process shall consider the fully proposed capital cost, including financing and carrying costs, of any proposed service, facility, or equipment and the operating costs and revenues, generally to one year beyond the break-even point.

(u) No Certificate of Need applications for inpatient services shall be accepted for processing unless the applicant documents in the application that he owns the site where the facility, service, or equipment will be located, or has an ownership or lease option for such site which is valid at least through the Certificate of Need processing period. Applicants submitting applications to provide other than inpatient services will have 90 days from the date of Certificate of Need approval to provide the Department with documented evidence of ownership of the site for the service, facility or equipment or with a purchase or lease option for the site of the service, facility or equipment.

(v) 100 percent of the ownership of the proposed facility, service or equipment must be accounted for in the Certificate of Need application. Each and every principal involved in the proposal must be identified along with the percentage of his or her interest. If the principals are a corporation, each and every stockholder holding 10 percent or more interest in the corporation also must be identified.

(w) The operator of the proposed facility, service, or equipment must file and sign the application. In the case of transfer of ownership the current owner must file and sign a supplement to the application.

(x) Any health care facility which has closed or substantially ceased operation of any of its beds, facilities, services, or equipment for a period of 18 months or longer shall require a Certificate of Need before reopening such beds, facilities, services, or equipment.

8:33-1.4 Thresholds

(a) The monetary thresholds applied to applications for Certificate of Need review include:

1. Acquisition of major moveable equipment	$400,000
2. Modernization/renovation/construction:	
i. Hospitals	$600,000
ii. Long-term care facilities	$600,000
iii. All other health care facilities	$600,000

3. Any modernization/renovation/construction project below the thresholds noted at N.J.A.C. 8:33-1.4(a)2 does not require a Certificate of Need and will not be accepted for processing unless they include any activity noted at N.J.A.C. 8:33-1.4(b)1.-7.

4. The Department will report to the Health Care Administration Board annually on inflation and its effect on health care costs and, when appropriate, will recommend adjustments to the thresholds.

(b) The following activities require a Certificate of Need regardless of the amount of capital or operating cost involved:

1. Initiation of any new health care service (except as modified in Exhibit 3B for component services that do not exceed the monetary thresholds identified at N.J.A.C. 8:33-1.4(a)).

2. Regionalized services which are identified in Department of Health planning regulations.

3. Bed additions, reductions, or conversions.

4. Expansion, termination, reduction or relocation of a facility, service or equipment in a manner which results in problems of access to populations historically served or proposed to be served by the facility, service or equipment.

5. Transfer of any hospital patient care service from one corporate entity to another.

6. Transfers of ownership.

(c) See N.J.A.C. 8:33-2.4-2.9 for additional thresholds and further detail on the thresholds noted at N.J.A.C. 8:33-1.4(a) and (b).

8:33-1.5 Batching cycles and deadlines dates

(a) There shall be 12 review cycles for non-batched Certificate of Need applications in a year. The beginning of each cycle shall be the fifteenth day of each month and a decision should be rendered by the Commissioner of Health approximately three months after the beginning of the review process.

(b) Deadlines for initial submission of applications shall be no later than the first day of the month preceding the beginning of a review cycle.

(c) The Calendar for the non-batched Certificate of Need review process follows:

Deadline for Initial Submission		Cycle Begins		Commissioner's Decision Due	
December	1	January	15	April	15
January	1	February	15	May	15
February	1	March	15	June	15
March	1	April	15	July	15
April	1	May	15	August	15
May	1	June	15	September	15
June	1	July	15	October	15
July	1	August	15	November	15
August	1	September	15	December	15
September	1	October	15	January	15
October	1	November	15	February	15
November	1	December	15	March	15

(d) Batching cycles: Applications pertaining to the following services, facilities, and equipment must be batched according to the following review cycles:

Category	Deadline for Actual Submission	Cycle Begins
Hospital bed additions; modernization/renovation/ new construction of $10 million or more (two phase process)	Phase 1: July 1 Jan. 1	August 15 Feb. 15
	Phase 2: Administrative Review - may be submitted for any cycle.	
Long term care bed additions; new construction	Oct. 1 Feb. 1 June 1	Nov. 15 Mar. 15 July 15
CAT scanners; PET scanners; nuclear medicine equipment; magnetic resonance imaging	Apr. 1 Aug. 1 Dec. 1	May 15 Sept. 15 Jan. 15
Megavoltage therapy equipment	Apr. 1 Aug. 1 Dec. 1	May 15 Sept. 15 Jan. 15
Cardiac diagnostic and surgical services, modernization/ renovation and equipment	May 1 Sept. 1 Jan. 1	June 15 Oct. 15 Feb. 15
End stage renal disease equipment and services	May 1 Sept. 1 Jan. 1	June 15 Oct. 15 Feb. 15
Home Health Care Services	Apr. 1 Aug. 1 Dec. 1	May 15 Sept. 15 Jan. 15
Surgical Facilities and Services (inpatient and free-standing)	July 1 Jan. 1	Aug. 15 Feb. 15
Emergency Transport & MICU Services	Oct. 1 Feb. 1 June 1	Nov. 15 Mar. 15 July 15
Other Ambulatory Care Services (initiation and expansion; does not include renovating only to hospital outpatient services)	Apr. 1 Aug. 1 Dec. 1	May 15 Sept. 15 Jan. 15

8:33-1.6 Definitions

The following words and terms, when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

160X

"Administrative Review Process" means the review by the Department of Health of an application meeting certain specified criteria, with the Health Systems Agency having the option for review and presentation of recommendations to the Department. Such a review process is generally of shorter duration than the full review process and normally does not include a review by the Statewide Health Coordinating Council.

"Affected persons" mean the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health care facilities within that geographic area; the health systems agency for the health service area in which the project is to be offered or developed, Health Systems Agencies serving contiguous health systems areas; health care facilities and health maintenance organizations in the health service area in which the project is to be offered or developed which provide services similar to the proposed services under review; health care facilities and health maintenance organizations which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide such similar services in the future; third party payors who reimburse health care facilities for services in the health service area in which the project is proposed to be located; and any agency which establishes rates for health care facilities or HMOs located in the health service area in which the project is proposed to be located.

"Alcoholism services" mean the following:

1. Outpatient services: the provision of scheduled, or non-scheduled, non-residential diagnostic and primary alcoholism treatment services by a detoxification, residential treatment center or a hospital.

2. Residential treatment: The provision of an intermediate term (28 days average) therapeutic residential program of comprehensive structured alcoholism treatment services, medical support and a wide range of supportive services for detoxified individuals.

3. Detoxification service: The provision of short-term (two to seven days) residential care and service for the reception and observation of intoxicated persons; the detoxification of intoxicated persons; the counseling of alcoholics to motivate their further treatment, and the referral of detoxified persons to appropriate treatment programs for continued care.

"Applicant" means an individual, a partnership, a corporation (including associations, joint-stock companies, and insurance companies) a State, or a political subdivision or instrumentality (including a municipal corporation) of a State that will be the operator of the proposed service, facility or equipment, except in the case of a transfer of ownership where the applicant means the proposed new owner(s) of the service, facility, or equipment with the current owner(s) required to file and sign a supplement to the transfer application.

"Bed capacity" means the licensed number of beds by service within the facility.

"Change in the cost of financing" means an increase in financing related charges for the project; or an increase in the annual interest rate for the financing.

"Change in the method of financing" means a change in the source of financing for a project (for example a change from tax-exempt bonds to taxable

bonds), or a change in the amount of project costs which are to be paid from cash, fund raising, grants or other sources other than mortgages, loans or leases.

"Change in project scope" is defined as a deviation from the approved project which results in an increase or decrease in any one of, but not limited to the following:

1. number of beds by service;

2. major movable equipment;

3. array of services;

4. service area;

5. access or availability to the approved project.

"Construction" means the erection, building, or substantial acquisition, alteration, reconstruction, improvement, renovation, extension or modification of a health care facility, including its equipment, the inspection and supervision thereof; and the studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary thereto.

"Deferral" means a voluntary request to the Department by a Certificate of Need applicant or the acceptance of a request from a reviewing body by an applicant to suspend further review of a submitted application for a limited period of time.

"Drug abuse services" mean the following:

1. Detoxification: The modality in which there is planned withdrawal from drug dependency supported by use of prescribed medication.

2. Maintenance: The modality in which methadone and/or any of its derivatives is administered over a long period of time in order to either maintain patients at a stable degree or, by slow reduction of the dosage, achieve a drug-free state.

3. Drug-free residential: The modality that does not include any chemical agent or medication as the primary part of drug treatment but where the client resides in a drug abuse treatment unit other than a prison or hospital.

4. Drug-free outpatient (including day care): The modality that does not include any chemical agent or medication as the primary part of the drug treatment. The client resides outside the clinic but attends the clinic or participates in drug abuse treatment programs.

"Equipment system" means a group of equipment units, which operate together to perform a function. For example, the central processing unit of a computer and its peripheral equipment comprise an equipment system. The bedside cardiac monitor units and the nursing console form an equipment system.

"Equipment unit" is an apparatus that can perform its designated function by itself without the addition of any other component.

"Financing Charges" means charges, fees and costs incurred by a health care facility in connection with obtaining financing for a project, including, but not limited to: points, discount, financing fees and other charges by the financing agency, authority, bank or trustee; interest on borrowings during construction, net of any interest earnings derived from the investment of borrowed funds; fees of bond counsel, counsel to the lender and counsel to the trustee, if any; fees of accountants and feasibility or other financial consultants; a reserve for debt service equal to one year's principal and interest; charges for title insurance, mortgage insurance, bond insurance or other insurance required in connection with the financing; and rating service fees, printing costs and other costs incurred in connection with the financing; provided that where financing is being provided with tax exempt bonds, an application for a Certificate of Need will be deemed to include a reserve for debt service of one year's principal and interest and a reasonable underwriter's discount or financing fee, as approved by the bond issuing authority.

"Fixed equipment" means equipment which is attached to the physical plant of a facility.

"Full Review Process" means the review of an application by the Health Systems Agency(ies) and the Statewide Health Coordinating Council as well as the Department of Health. Such a review process generally results in a decision within 90 days of the beginning of a review cycle.

"Health care facility" means the facility or institution, whether public or private, principally engaged in providing services for health maintenance, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, special hospital, mental hospital, public health center, diagnostic center, treatment center, rehabilitation center, extended care facility, skilled nursing home, nursing home, intermediate care facility, tuberculosis hospital, chronic disease hospital, maternity hospital, out-patient clinic, dispensary, home health care agency, residential health care facility and bio-analytical laboratories or central services facility serving one or more such institutions but excluding institutions that provide healing solely by prayer and excluding such bio-analytical laboratories as are independently owned and operated, and are not owned, operated, managed or controlled in whole or in part, directly or indirectly by any one or more health care facilities and the predominant source of business of which is not by contract with health care facilties within the State of New Jersey and which solicit or accept specimens and operate predominantly in interstate commerce. Exhibits 3A and 3B provide examples of some types of the services provided by a health care facility.

"Health care service" means the preadmission, outpatient, inpatient, and post-discharge care provided in or by a health care facility, and such other items or service as are necessary for such care, which are provided by or under the supervision of a physician for the purpose of health maintenance or diagnosis or treatment of human disease, pain, injury, disability, deformity, or physical condition, including, but not limited to nursing service, home care nursing and other paramedical service, ambulance service associated with a health care facilty, service provided by an intern, resident in training or physician whose compensation is provided through agreement with a health care facility, laboratory service, medical social service, drugs, biologicals, supplies, appliances, equipment, bed and board, but excluding services provided by a physician in his private practice or by practitioners of healing solely by prayer, and services provided by first aid, rescue

and ambulance squads as defined in the "New Jersey Highway Safety Act of 1971", P.L.1971, C. 351.

"Health maintenance organization" or HMO means a public or private organization organized under the N.J.S.A. 26:2J-1 et seq. and which is qualified under section 1310 (D) of Title XIII of the Federal Public Health Services Act or which is state certified and meets the definition of HMO under section 1122 of the Social Security Act (which definition reads "an HMO is an organization which (1) provides or otherwise makes available to enrolled participants Health Care Services, Hospitalization, Laboratory, X-Ray, Emergency and Preventive Services and out of area coverage; (2) is compensated (except for co-payments) for the provision of the basic health care services listed in clause (1) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health care services are provided, and which is fixed without regard to the frequency, extent, or kind of health care service actually provided; and (3) provides physician's services primarily, (I) directly through physicians who are either employees or partners of such organization, or (II) through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice basis.").

"Health systems agency" (HSA) means an officially recognized health systems agency formed under the provision of federal Public Law 93-641, as amended and supplemented.

"Inpatient psychiatric units" mean a setting for continuous 24-hour diagnostic, treatment and therapeutic mental health services housing organized medical, nursing and ancillary treatment staffs for patients who have any of a variety of psychiatric disorders. These units include the following types:

1. "Adult Open Acute Psychiatric Beds" means licensed psychiatric beds in a designated and separate unit of a New Jersey hospital, for the provision of intensive treatment and rehabilitation of persons who are experiencing an acute episode of a psychiatric disorder. Admissions to the unit generally have a length of stay which averages 30 days or less.

2. "Inpatient Screening Beds" means licensed psychiatric beds within or contiguous to a licensed psychiatric unit of a licensed New Jersey hospital which have been designated as Mental Hospital beds by the Commissioner of the Department of Human Services. Such beds are for the provision of intensive treatment, evaluation, and stabilization of adults who are experiencing an acute episode of a psychiatric disorder. All persons admitted to the unit must be under involuntary commitment order. Maximum stay under involuntary commitment order in an inpatient screening bed is 72 hours.

3. "Closed Acute Psychiatric Beds" means licensed psychiatric beds in a separate unit of a licensed New Jersey hospital which have been designated as Mental Hospital beds by the Commissioner of the Department of Human Services. Such beds are for the provision of intensive treatment and rehabilitation services for persons who are experiencing an acute episode of a psychiatric disorder. Admissions to the unit have an average length of stay of less than 30 days.

4. "Intermediate Psychiatric Beds" means licensed psychiatric beds in a New Jersey psychiatric (special) hospital, established for the purpose of providing intensive treatment and rehabilitation of persons who are experiencing an acute episode of a psychiatric disorder, who have been determined to require provision of

a more comprehensive and specialized program of psychiatric services than prescribed by Department of Health licensure standards governing Adult Open Acute Psychiatric units. Admissions to the Intermediate Psychiatric unit or facility have an average length of stay between 30 to 60 days.

5. "Child Acute Psychiatric Bed" means any separate unit or facility, or subunit of an existing licensed psychiatric unit or facility, established for the provision of intensive treatment and rehabilitation of individuals age 18 and under, who are experiencing an acute episode of a psychiatric disorder. Certificate of Need applications including children's psychiatric beds are governed by N.J.A.C. 8:43E-4.1 et. seq.

"Major moveable equipment" means equipment which generally is not attached to the physical plant of a facility and has for depreciation purposes a predetermined life.

"Mandatory replacement of equipment and/or mandatory renovations to facilities" means replacement of equipment or renovations for one or more of the following reasons (the "mandatory" nature of the replacement or renovation shall be determined by the Department of Health):

1. Required as a result of a mandate from any Federal, State, county or municipal governmental agency.

2. Required to operate the health care facility without harm or major disruption to the care of patients.

3. Examples of this type of replacement would include the breakdown of a heating and/or cooling plant within a facility or a malfunction rendering inoperable the power plant of a facility.

"Mobile intensive care services" (MICU) means hospital managed clinical services provided for emergency prehospital care of the acutely ill or injured patient; they consist of the trained/certified personnel and equipment necessary to provide advanced life support techniques such as administration of medications, intravenous fluids, airway maintenance and defibrillation as authorized under Public Law 1973, Chapter 229; they are provided under the remote on-line medical direction of qualified hospital staff in accordance with pre-established treatment protocols; and they treat only acute patients and supplement the basic life support care administered by emergency ambulance services. Each mobile intensive care unit is staffed by a minimum of two persons who may be paramedics qualified under N.J.S.A. Title 26, Chapter 2K; nurses certified by a hospital to provide advanced life support, or physicians.

"Medically underserved" groups shall mean all population groups including racial and ethnic minorities, migrant workers, the handicapped, Medicaid recipients, women and families with incomes below 80 percent of the median income for either the state or the Standard Metropolitan Statistical Area in which they reside, and other identifiable segments of the population which currently fail to use health care services in numbers approximately proportionate to their presence in the population as adjusted to account for their need for such services.

"Modernization" includes the alteration, expansion, major repair (to the extent permitted by regulations), remodeling, replacement, and renovation of

existing buildings (including initial equipment thereof), and the replacement of obsolete equipment of existing buildings.

"New health care service" means the addition of a health service which was not offered by or on behalf of the facility within the previous twelve months. New Health Care Service may result from addition of staff, acquisition of equipment through purchase, lease or donation, and/or the creation of a new service area.

"Nonbed related psychiatric care" includes the following which to be considered a health care service must meet standards as prescribed by the Rules and Regulations Governing Community Mental Health Services and State Aid under the Community Mental Health Services Act (N.J.A.C. 10:37-1 et seq.):

1. Outpatient care: A setting in which the recipient receives relatively brief services, usually less than three hours, on an individual or group basis. The setting is usually a clinic or similar facility, but may be in the recipient's home or some other setting. Services provided by an outpatient program include Counseling, Assessment and Evaluation, Service Procurement (case management), and Treatment and Therapy.

2. Partial care (partial hospitalization): A setting in which a planned program of mental health services are generally provided in sessions of three or more hours per day to groups of recipients.

3. Emergency screening: A setting in which short-term interventions are available to clients in need on an immediate basis. The mode of intervention may be by: telephone, such as a 24-hour "hot-line"; outreach, such as home visits; or at a facility easily accessible to clients with an acute need for mental health services, such as a hospital emergency room. Services may include Assessment and Evaluation, Counseling, Medical/Psychiatric Care, Treatment and Therapy, Information and Referral, and Service Procurement.

"Not Accepted for Processing" means the Department of Health may decide not to accept for review an application submitted in an incorrect batch or one that is inappropriately submitted for administrative review.

"Null & Void" and "nullification" means the termination of a Certificate of Need by the Commissioner of Health prior to the expiration of the Certificate.

"Optional replacement of equipment" means replacement by equipment which will perform more analyses, operate more efficiently, economically or reliably or in some manner improve operations in a unit.

"Similar equipment units" means pieces of equipment which are similar in function and appearance. For example, a manually operated bed and an electrically operated bed are similar units. A 1,000 power microscope and 500 power microscope are similar units. A coulter counter and a microscope are not similar units.

"State agency" means the New Jersey State Department of Health.

"Statewide health coordinating council" means the Statewide Health Coordinating Council formed under the provision of federal Public Law 93-641, as amended and supplemented.

"Total Project Cost" means all costs associated with the proposed project, including all capital costs, carrying and financing costs, interest on borrowings during construction, and lease/rental agreements. Total project costs excludes any contingency amounts.

"Withdrawal" means a voluntary written request to the department by a Certificate of Need applicant to cease any further review of a submitted application. Such a request shall be considered final by the Department and no further consideration or review shall be given to the "withdrawn" application.

SUBCHAPTER 2. CRITERIA FOR SUBMISSION OF CERTIFICATE OF NEED APPLICATIONS

8:33-2.1 Access criteria

(a) Each applicant for Certificate of Need must demonstrate how the proposed project offers equal access to low income persons, racial and ethnic minorities, women, handicapped persons, the elderly, and other underserved groups. In determining the extent to which the proposed service provides equal access and availability to the aforementioned populations, the applicant shall address in writing the following:

1. The extent to which medically underserved populations currently use the applicant's service or similar services in comparison to the percentage of the population in the applicant's service area which is medically underserved, and the extent to which medically underserved populations are expected to use the proposed services if approved;

2. The performance of the applicant in meeting its obligation, if any, under any applicable State and Federal regulations requiring provision of uncompensated care, community services, or access by minorities and handicapped persons to programs receiving Federal financial assistance (including the existence of any civil rights access complaints against the applicant);

3. The extent to which Medicare, Medicaid and medically indigent patients are served or are proposed to be served by the applicant;

4. The extent to which the applicant offers a range of means by which a person will have access and availability to its service (for example, outpatient services, admission by house staff, admission by personal physician);

5. In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the need that the population presently served has for the service, the extent to which that need will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups, and the elderly to obtain needed health care;

6. The amount of charity care, both free and below cost service, that will be provided by the applicant. In determining eligibility for this care the applicant shall use the eligibility categories A and B of the Hill-Burton Act regulations 42 CFR 124.501 et seq.;

7. Access to public or private transportation to the proposed project must be documented;

8. As applicable, effective communication between the staff of the proposed project and non-English speaking people and those with speech, hearing, or visual handicaps must be documented; and

9. Where applicable, the extent to which the project will eliminate architectural barriers to care for handicapped individuals.

(b) No Certificate of Need shall be granted to any facility that currently fails to provide or fails to contractually commit to provide services to medically underserved populations residing or working in its service area as adjusted for indications of need. In addition, no Certificate of Need shall be granted to any facility that fails to commit it will inform the public, especially medically underserved individuals, of its obligation to provide free and below cost services to eligible individuals and of its obligation not to discriminate against low income persons, minorities, and handicapped individuals.

8:33-2.2 Long range plans

(a) No applications for Certificate of Need from a hospital shall be processed by the Department unless the applicant has submitted to the Department an acceptable long-range plan in accordance with N.J.A.C. 26:2H-1 et. seq. and N.J.A.C. 8:31-16.1.

8:33-2.3 Letters of intent

(a) Any person or organizational entity intending to submit any Certificate of Need application shall first file a Letter of Intent in such detail as may be necessary to inform the Department of Health and the applicable Health System Agency(ies) of the scope and nature of the intended project. Such letter must be submitted to the Department and the applicable Health Systems Agency(ies) not less than 90 days before the initial submission of an application for construction, modernization, renovation, bed additions, or equipment acquistion in excess of $3 million dollars and at least 60 days before submitting an application for any other type of project. Letter of Intent forms are available from the Certificate of Need Program. No application will be accepted for processing if the required Letter of Intent was not filed on a timely basis.

8:33-2.4 Buildings

(a) The following criteria shall apply to buildings:

1. Regardless of cost, a Certificate of Need is required for any purchase, rental, lease, donation or construction of a building which will:

i. Establish a new health care facility;

ii. Replace an existing bed related health care facility;

iii. Establish a bed related satellite location for an existing health care facility;

iv. Involve the relocation and replacement of an existing non-bed related health care facility into a new health service area or to an area that result in problems of access to populations historically served by the facility;

v. Establish a non-bed satellite service of an existing health care facility into a new health service area.

8:33-2.5 Bed capacity

(a) The following criteria shall apply to bed capacity:

1. Any increase in the total number of licensed beds requires a Certificate of Need. Any project involving an increase in total licensed beds, where the total cost of the entire project is $10 million or greater shall follow the review process described at N.J.A.C. 8:33-1.5(d) and 8:33-2.7(a)11.

2. Any increase in the total number of residential health care beds of up to ten beds or ten percent of existing licensed capacity, whichever is less, requires a Certificate of Need and shall follow the administrative review process outlined in N.J.A.C. 8:33-4.8; any increases greater than this shall be subject to full review.

3. The relocation of beds from one physical facility or site to another requires a Certificate of Need.

4. Any change in the number of beds within categories licensed for a facility that will not affect the total number of licensed beds, or result in a capital expenditure requires a Certificate of Need and shall follow the administrative review process outlined in N.J.A.C. 8:33-4.8.

5. Any decrease in the total licensed bed capacity of a facility which under generally accepted accounting principles, will result in a capital expenditure, requires a Certificate of Need.

6. Any decrease in the total number of licensed beds which will not involve a capital expenditure requires a Certificate of Need and will follow the administrative review process outlined in N.J.A.C. 8:33-4.9.

8:33-2.6 Health care services

(a) The following criteria shall apply to health care services:

1. Implementation of any new health care service (except as modified in Exhibit 3B for component services that do not exceed the monetary thresholds identified at N.J.A.C. 8:33-1.4(a)), regardless of the amount of capital or operating expenditures requires a Certificate of Need.

2. Discontinuance or substantial reduction of any health care service for which a facility is recognized for reimbursement will require a Certificate of Need. Sixty days prior to the substantial reduction of any such health care service the facility must notify the Department in writing of this intent. Based upon indicators of need, access, and economic viability, the Department, after consultation with the appropriate Health System Agency(ies), shall determine whether such reduction in services requires a Certificate of Need review and shall notify the facility of its determination within sixty days of receipt of the notice of intent.

3. Mandatory implementation of a new health care service requires a Certificate of Need and shall follow the administrative review process outlined in N.J.A.C. 8:33-4.10.

4. A Certificate of Need is required whenever a health care facility wishes to transfer to another corporate entity, in whole or in part, any patient care service and shall follow the administrative review process outlined in N.J.A.C. 8:33-4.2(c).

8:33-2.7 Equipment and modernization

(a) The following criteria shall apply to equipment and modernization:

1. The acquisition of any major moveable equipment through purchase, lease, or donation whose cost including installation and renovation under generally accepted accounting principles results in a total project cost of $400,000 or more requires a Certificate of Need.

2. A Certificate of Need is required for acquisition of a group of similar equipment units or an equipment system for which cumulative total project costs are $400,000 or more, or are expected to be $400,000 or more, within a 12 month period.

3. Acquisition of major moveable equipment not owned and operated by a health care facility also requires a Certificate of Need if the equipment will be used to provide services to any inpatients of one or more health care facilities and the acquisition results in a total project cost of $400,000 or more per unit of equipment or for an equipment system including installation. Such applicants are subject to the Letter of Intent requirements identified at N.J.A.C. 8:33-2.3. Such acquisition applications may be subject to the batching requirements identified at N.J.A.C. 8:33-1.5(d).

4. The addition of renal dialysis stations and operating rooms, regardless of the amount of capital or operating expenditures requires a Certificate of Need.

5. Mandatory replacement of moveable equipment, as defined at N.J.A.C. 8:33-1.6, in excess of the cost regulations for replacement requires a Certificate of Need and shall follow the administrative review process outlined in N.J.A.C. 8:33-4.3.

6. A Certificate of Need is required for the acquisition of fixed equipment, or the modernization/renovation/new construction of a health care facility which under generally accepted accounting principles results in a total project cost over a 12-month period of time of:

i. $600,000 or more for all hospitals;

ii. $600,000 or more for all long-term care facilities;

iii. $600,000 or more for all other health care facilities.

7. Replacement of existing equipment with the same equipment which exceeds the dollar thresholds indicated at N.J.A.C. 8:33-2.7(a)1 and 8:33-2.7(a)2 shall follow the administrative review process described at N.J.A.C. 8:33-4.4 unless the Department, in consultation with the appropriate Health Systems Agency(ies), determines a full review is necessary. This applies to replacement equipment that maintains existing capability and does not include upgrading to a new technology or a new capability. Any replacement that results in an upgrading of capability requires a full review.

8. Mandatory replacement of fixed equipment and/or mandatory renovations to facilities as defined at N.J.A.C. 8:33-1.6 in excess of the monetary thresholds for equipment replacement or renovations requires a Certificate of Need and shall follow the administrative review process outlined in N.J.A.C. 8:33-4.3.

9. Acquisition of telephone or computer systems in excess of $400,000 requires a Certificate of Need and shall follow the administrative review process outlined in N.J.A.C. 8:33-4.11.

10. Acquisition of fixed equipment and/or renovations to facilities dealing exclusively with energy conservation and management in excess of the cost thresholds for optional replacements or renovations requires a Certificate of Need and shall follow the administrative review process outlined in N.J.A.C. 8:33-4.14.

11. For projects involving hospital bed additions, modernization/renovation, or new construction which under generally accepted accounting principles results in a total project cost of $10 million dollars or more, the applicant is required to submit two separate Certificate of Need applications as follows:

i. The first application shall address the need for the project and its conformance with appropriate Departmental regulations, the State Health Plan, and the area's health systems plan. The application shall be a request to undertake facility planning studies and for conceptual drawings with scope and cost estimates indicating various architectural options for the construction/modernization/renovation;

ii. If the first application is approved the second application shall be submitted following consultation with the Department and appropriate Health Systems Agency staff regarding the findings of the facility planning studies and architectural, planning, and cost options. This Certificate of Need request shall follow the administrative review process outlined in N.J.A.C. 8:33-4.15 and shall be for the specific construction/modernization/renovation option the applicant has chosen and shall include capital cost and operating cost estimates;

iii. Applications shall be batched according to the schedule specified in N.J.A.C. 8:33-1.5(d).

8:33-2.8 Batching

(a) Applications pertaining to the following services, facilities, and equipment must be considered in relation to each other ("batched") according to the schedule specified in 8:33-1.5(d):

1. Hospital bed additions/modernization/renovation/new construction of $10 million dollars or more.

2. Long-term care bed additions/new construction.

3. Computerized tomography (CT) services; positron emission tomography (PET) services; nuclear medicine equipment; magnetic resonance imaging.

4. Megavoltage therapy equipment.

5. Cardiac diagnostic and surgical services, including modernization/renovation/new construction and the acquisition and/or replacement of equipment.

6. End-stage renal disease equipment and services.

7. Home health care services.

8. Surgical services (inpatient and free-standing).

9. Emergency transport and MICU services.

10. Ambulatory care services.

11. Others as defined by specific planning regulations.

(b) Any equipment acquisition which is subject to Certificate of Need batching requirements must be processed in the appropriate batch and cannot be included as part of another application such as a facility modernization/renovation/construction project.

(c) Applications which satisfy the requirements of N.J.A.C. 8:33-2.6(a)3, 8:33-2.7(a)5, 7, 8, 9, and 10 are not required to be batched.

8:33-2.9 Facility/service planning

(a) The following criteria shall apply to facility and/or service planning:

1. A Certificate of Need is required when the expenditures required for plans, feasibility studies, surveys, designs, or architectural drawings are $150,000 or more in a lump sum amount or over a 12 month period.

2. Expenditures for plans, feasibility studies, surveys, designs, or architectural drawings less than $150,000 but more than $50,000 (cumulative expenditures over a 12 month period) require a Certificate of Need and shall follow the administrative review process outlined in N.J.A.C. 8:33-4.4.

8:33-2.10 Transfer of ownership

(a) Certificates of Need are not transferable in whole or in part. Only the ownership of an existing, licensed health care facility, or licensed, existing beds, services, or equipment is transferable.

(b) Transfer of ownership procedures pertain exclusively to existing licensed health care facilities. If there is an acquisition or a transfer of ownership which will increase or establish an interest in a health care facility as defined in N.J.A.C. 8:33-1.6 through sale, lease or by other means a Certificate of Need is required. The process for obtaining a Certificate of Need shall follow the administrative review process outlined in N.J.A.C. 8:33-4.2. An acquisition or a transfer of ownership which will increase or establish an interest in a health care facility as defined in N.J.A.C. 8:33-1.6 shall be deemed to take place if:

1. Corporations:

i. There is an acquisition by or a transfer of ownership to an individual, partnership or corporation through purchase, contract, donation, gift, stock option, etc., of 10 percent or more of a corporation's outstanding stock (preferred or common);

ii. There is acquisition of the physical assets of a corporation, partnership or individually owned health care facility by a newly formed or existing corporation, even if there is a common membership for both boards of directors.

2. Partnerships:

i. There is acquisition by or a transfer of ownership to an individual, partnership, or corporation of any amount of the existing partnership's total capital interest;

ii. There is acquisition of the physical assets of a corporation, partnership or individually owned health care facility by a newly formed or existing partnership.

3. Proprietorship:

i. There is a purchase of the physical assets of a health care facility.

(c) The application for transfer of ownership must specify each and every principal involved in the facility and service and their percentage of ownership. The entire ownership must be identified in the application.

(d) If the facility being transferred has any partially implemented or unimplemented Certificate of Need approvals, approval of the transfer of ownership of the existing, licensed facility shall null and void these Certificate of Need approvals.

(e) At the discretion of the Department, an exception to N.J.A.C. 8:33-2.10(a) and (b) may be permitted and the transfer of ownership process may be allowed to proceed on an unimplemented Certificate of Need approval for facility construction if all the following criteria are satisfied:

1. The transfer process only involves a change in the type of organizational entity owning the facility (for example, a change from a corporation to a partnership or vice versa).

2. There has been no change in the principals awarded the original Certificate of Need.

3. There has been no change in the percentage owned by any of the principals awarded the original Certificate of Need.

4. The change in type of organizational entity must be as a result of changes in the requirements of a government agency and enhance the liklihood of obtaining financing.

(f) The transfer of ownership of any licensed general acute care, special hospital and psychiatric hospital shall follow the full review process and may not be processed under the administrative review process.

8:33-2.11 Changes in cost/scope

(a) The following criteria shall apply to changes in cost or scope:

1. Any proposed change in the cost of an approved project shall require a change of cost review and shall follow the administrative review process outlined in N.J.A.C. 8:33-4.7. However, under no circumstances shall an approved certificate receive more than one administrative review for proposed changes involving

cost. Thus, any subsequent proposed changes involving cost, regardless of the absolute or percentage of change, shall require a full review.

2. Any change in the proposed method of financing, which will result in an increase in capital-related operating costs of 10 percent or more shall be considered a change in the financing of the project and shall follow the administrative review process outlined in N.J.A.C. 8:33-4.7.

3. Any significant change in the scope of an approved project requires a Certificate of Need. A significant change consists of any of the following:

i. Increase or decrease in the number or category of approved beds;

ii. Deletion of approved major moveable equipment;

iii. Addition, substantial reduction, as determined by the Department, or elimination of any of the standard categories of health care services;

iv. Relocation of the proposed project from one county to another or from municipalities with a population greater than 50,000 to any other municipality, or to an area which results in problems of access to populations proposed to be served requires a full review; any other relocation shall follow the administrative review process outlined in N.J.A.C. 8:33-4.14, except where the Department, in consultation with the appropriate Health Systems Agency(ies), determines that the proposed relocation may diminish access to patients proposed to be served, a full review may be required; or

v. Any increase or decrease of ten percent or more of the total approved square footage to be renovated and/or constructed that also results in an increase in total approved project costs requires a full review; any increase or decrease of less than ten percent of the total approved square footage for such projects that also results in an increase in total project costs shall follow the administrative review process outlined in N.J.A.C. 8:33-4.7.

4. The Department shall not process any applications for changes in scope and/or cost when the changes in scope and/or cost have already occurred and have been implemented by the time the application is submitted for processing unless the Commissioner determines that the changes arose from extraordinary unforseeable circumstances outside the applicant's control.

5. The approval of a change in cost, financing, or scope application shall not extend the expiration date of the original approval. If an extension of the expiration date is also desired, such request, along with reasons for the request, must be specifically made in writing in the change in cost, financing, or scope application.

8:33-2.12 Demonstration/research projects

(a) The following criteria shall apply to demonstration/research projects:

1. Implementation of any unique demonstration or research project requiring a Certificate of Need, but for which criteria and standards for licensure have not been established, shall follow the administrative review process as

outlined at N.J.A.C 8:33-4.12 unless the Department determines that a full review is necessary.

2. Applications approved for demonstration or research projects should incur only minimal costs for physical plant construction and/or renovation until the completion of the demonstration period and criteria and standards for licensure have been developed.

3. At the time of review the Department shall establish a time-frame within which the demonstration shall function. The Department shall issue a report regarding the demonstration and, depending upon the results, shall issue appropriate standards and criteria.

8:33-2.13 Health maintenance organizations

(a) The following criteria shall apply to health maintenance organizations (HMO):

1. A Certificate of Need shall not be required for an HMO to develop its ambulatory care facility or to provide basic and supplemental ambulatory services except where such services are the subject of an approved Department of Health regionalized service planning regulation.

2. A Certificate of Need shall not be required when an exemption has been granted by the Commissioner of Health for the offering of an inpatient institutional health service, the acquisition of major medical equipment for the provision of an inpatient institutional service or the obligation of a capital expenditure for the provision of an inpatient institutional health service by:

i. An HMO or combination of HMO's if:

(1) The HMO or combination of HMO's has in the service area of the HMO or the service area of the HMO's in combination, an enrollment of at least fifty thousand individuals;

(2) The facility in which the service will be provided is or will be reasonably accessible to such enrolled individuals; and

(3) At least 75 percent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled with such HMO or combination of HMO's.

ii. A health care facility if:

(1) The facility primarily provides inpatient health services, and

(2) The facility is controlled directly or indirectly by an HMO or combination of HMO's which has, in the service area of the HMO or combination of HMO's an enrollment of at least fifty thousand individuals; and

(3) The facility is geographically located so that the service will be reasonably accessible to such enrolled individuals; and

(4) At least 75 percent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled with such HMO or combination of HMO's; or

iii. A health care facility (or portion thereof) if:

(1) The facility is leased by an HMO or combination of HMO's which has in the service area an enrollment of at least fifty thousand individuals and on the date of the application is submitted under (4.) below at least fifteen years remain in the term of the lease;

(2) The facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals; and

(3) At least 75 percent of the patients who can reasonably be expected to receive the institutional health service will be individuals enrolled with such HMO.

3. For the purposes of this section, "indirect control of a health care facility" includes circumstances in which a majority of the members of the board of a hospital corporation are employees, officers or directors of an HMO, or in which members of the board of an HMO are the same as members of the board of a hospital corporation.

4. An HMO, or combination of HMO's, or health care facility shall not be exempt from obtaining a Certificate of Need before offering an institutional health service, acquiring major medical equipment, or obligating capital expenditures unless:

i. It has submitted an application for exemption to the Certificate of Need Program and the appropriate Health Systems Agency(ies);

ii. The application contains such information to show that the HMO or combination of HMO's meet the requirements of 2. above;

iii. The Commissioner of Health approved such application.

(1) The Commissioner shall approve an application for exemption if the applicable requirements of 2. above have been met or will be met on the date the proposed activity for which an exemption was requested will be undertaken.

5. A health care facility (or portion thereof) or medical equipment for which an exemption was granted may not be sold or leased, a controlling interest in the facility, or equipment or in a lease of the facility or equipment may not be acquired, and a health care facility described in 2.iii above which was exempted may not be used by any person other than the lessee described in 2.iii above unless a Certificate of Need has been granted for the sale, lease, acquisition, or use, or the Commissioner of Health determines, upon application, that the entity which intends to buy or lease the facility or equipment, or acquire the controlling interest in it, or which intends to use it, is a HMO or a combination of HMO's which have applied for and been granted exemption.

8:33-2.14 Extensions of time

(a) The following criteria shall apply to extensions of time:

1. A Certificate of Need is valid for one year from the date of issue. If the project or portions thereof have not been substantially completed within this time frame the uncompleted project or portions shall be deemed to be terminated except that the Commissioner may renew the Certificate for further periods if the applicant documents substantial progress towards completion of the project. For construction or renovation projects no renewal of the Certificate will be granted unless preliminary construction plans have been submitted to the Department. For purposes of this provision a project shall be substantially completed if equipment has been purchased, a new service has commenced operation, or for construction or renovation projects expenditure of 10 percent of the total project cost has been made on actual construction costs.

2. Substantial progress shall mean:

i. That the applicant owns the land, has a lease, or option that is valid during the extension period; and,

ii. That financing has been secured or will be by the end of the extension period. If financing is not secured by the end of the first extension period, the Certificate will be deemed null and void; and,

iii. That required approvals by other governmental agencies (eg., CAFRA, Pinelands Commission) have been granted or are submitted and in process of review; and,

iv. That plans have been submitted on a timely basis.

3. The only exception to N.J.A.C. 8:33-2.14(a)2. is that an extension of time may be granted if the applicant is engaged in litigation to reverse an adverse zoning decision before the Superior Court of New Jersey, Law Division or Chancery Division.

4. Applications for extension of time shall follow the administrative review process outlined at N.J.A.C. 8:33-4.6.

8:33-2.15 Financial criteria

(a) The following financial criteria shall apply in the review of all applications:

1. For purposes of Certificate of Need review, equity shall mean a non-operating asset contribution which will reduce the size of the total debt. It may include cash, other liquid assets, and the fair appraised market value of land owned by an applicant which is the viable site for the proposed project.

2. For all hospital applications involving a capital cost, each applicant will be required to make some equity contribution to all such projects. The Department will then use 15 percent of the total project cost as a guideline for the equity contribution requirement in reviewing such applications and will review arguments made by an applicant as to why a 15 percent equity contribution is unreasonable. In licensed general acute care hospitals only, this 15 percent equity

guideline may be reduced by one half of one percent per each full percentage point the hospital uncompensated care percentage exceeds the statewide average uncompensated care percentage for acute care hospitals. All other applications must document that 10 percent of the total project cost, including all financing and carrying cost, is available in the form of equity.

3. Each applicant must document that the project's cost will be financed through the least cost method of financing.

4. It shall be a condition of any approved Certificate of Need application that capital reimbursement will be predicated upon the higher of actual patient volume or the volumes projected in the approved application and the rate calculation will be adjusted to reflect this condition.

8:33-2.16 Violation of licensure standards

(a) No Certificate of Need applications will be approved from any applicants with existing non-waiverable violations of licensure standards which, as determined by the Department, threaten the life and safety of patients. The only exception will be in the case of applications submitted for the purpose of correcting recognized major licensure deficiencies. An exception to this provision may also be granted for applications submitted for the closure or substantial reduction of underutilized beds, services, or equipment.

SUBCHAPTER 3. THE REVIEW PROCESS

8:33-3.1 Development of applications

(a) Before filing an application, applicants are encouraged to contact the Health Systems Agency in the proposed service area to examine the relationship of the proposed project with the agency's plans, guidelines, and criteria. Applicants should refer to Exhibit 1 for information and assistance in determining how the proposed service area relates to the appropriate Health Systems Agencies. If the proposed service area overlaps more than one planning area, the applicant should work with each of the Health Systems Agencies.

(b) Separate applications shall be required for projects having component parts of such a nature where the Department determines that these component parts properly require a separate review under the review criteria.

(c) The Department of Health will not accept for review a resubmission of an application denied by the Health Care Administration Board until 90 days after its action unless new facts indicate a need has recently developed. The determination relating to the acceptability of the new facts will be made by the Department of Health.

8:33-3.2 Submission of applications; cycles

(a) When complete, three copies of the application shall be submitted to the appropriate Health Systems Agency(ies) simultaneously with eight copies to:

Certificate of Need Program
New Jersey State Department of Health
CN 360
John Fitch Plaza
Trenton, New Jersey 08625 (609) 292-6552

(b) There are 12 review cycles for non-batched Certificate of Need applications each year. The beginning of each cycle is the fifteenth day of each month. The Commissioner of Health should render a decision on or about the fifteenth day of the month, three months from the beginning of the review process.

8:33-3.3 Review for completeness

(a) The Department of Health shall make the determination of the completeness status of applications. Health Systems Agencies must provide the Department with written recommendations by the twentieth day of each month on the completeness of applications. The Department will review the Health Systems Agency recommendations and make a decision on completeness by the beginning of each review cycle and will notify both the applicant and the applicable Health System Agency(ies) in writing of its determination. Only complete applications will be processed. If an application has been determined incomplete, the Department shall notify the applicant and the appropriate Health Systems Agency(ies) citing the specific deficiencies in the application.

(b) Applications may be determined to be incomplete only once. After the applicant has forwarded the appropriate information, the application will be processed in the closest appropriate cycle beginning after receipt of the additional information.

(c) Once an application has been determined to be complete and submitted to the review process, no subsequent submission of information will be accepted, unless specifically requested in writing by the Department or the Health Systems Agency(ies). The Health Systems Agency questions and subsequent responses must be submitted to the Department on a timely basis.

(d) An application submitted in the incorrect batch or inappropriately requesting administrative review may be declared not accepted for processing by the Department of Health. The Department will notify the applicant of this decision and return the filing fee.

8:33-3.4 Notification to affected persons

(a) The Department of Health shall submit written notification to the Health Systems Agency for the health service area in which the proposed project is to be offered or developed and Health Systems Agencies serving contiguous health systems areas, of the beginning of a review and the proposed schedule for the review. Notification to members of the public will be provided through newspapers of general circulation.

(b) Upon receipt of a letter of intent to apply for a Certificate of Need, the Health Systems Agencies shall identify and notify all potential affected persons.

8:33-3.5 Role of the Statewide Health Coordinating Council

(a) The Statewide Health Coordinating Council shall act as the coordinating agency for the recommendations of the Health Systems Agencies, and other state departments as necessary in all substantive review matters.

(b) The Statewide Health Coordinating Council shall furnish written findings to the Commissioner which give the basis for any recommendations made by the council. Such written findings shall be forwarded to the Commissioner within 75 days after the beginning of a review cycle.

8:33-3.6 Procedures for state agency review

(a) Applicants are required to submit to the Department of Health (State Agency) in such form and manner, and containing such information as the Department shall prescribe and publish, such information as the Department may require concerning the subject of such review. Such information requirements may vary according to the purpose for which a particular review is being conducted or the type of health service being reviewed.

(b) The Department of Health may require the submission of periodic reports by providers of health services and other persons subject to Certificate of Need requirements respecting the development of proposals subject to Certificate of Need review (see N.J.A.C. 8:33-1.3(q)).

(c) The Commissioner shall make his decision and supporting reasons in writing. The decision will be sent to the applicant and to the appropriate Health Systems Agency, and shall be available to others upon request. In the case of a project proposal by an HMO the decision will be sent to the regional office of the Department of Health and Human Services at the time these are sent to the applicant.

(d) The Commissioner may not make his final decision subject to any condition unless the condition directly relates to the criteria for State Agency Review (see N.J.A.C. 8:33-3.7), criteria prescribed by State regulation, promotes the legislative intent of the enabling legislation (Chapters 136 and 138, Laws of New Jersey 1971), or Public Law 93-641 as amended, or related to material presented in the application itself.

(e) The Department of Health shall notify, upon their request, providers of health services and other persons subject to Certificate of Need requirements of the status of the State Agency review of Certificate of Need project proposals, findings made in the course of such review, and other information respecting such review.

(f) Pursuant to N.J.S.A. 26:2H-9, if the Commissioner disapproves a Certificate of Need application, the applicant shall be granted an opportunity for fair hearing to contest the Commissioner's action. In addition, the Statewide Health Coordinating Council and the Health Systems Agency shall be granted an opportunity for fair hearing when the Commissioner acts contrary to either of their recommendations concerning a Certificate of Need application.

(g) A request for a fair hearing shall be made to the Department of Health within 30 days of receipt of notification of the Commissioner's decision. The fair hearing shall be conducted according to N.J.S.A. 52:14F-1 et seq. and the uniform Administrative Procedure Rules of Practice (N.J.A.C. 1:1). The Health Care Administration Board within 30 days of receiving all appropriate hearing records or, in the absence of a request for a hearing within 30 days of receiving the denial recommendations of the Commissioner, shall make its determination.

(h) Any affected person may, for good cause shown, request of the State Agency in writing a public hearing for purposes of reconsideration of a final decision of the State Agency regarding a Certificate of Need application. A decision request for a public hearing shall be deemed to have shown good cause if it presents significant relevant information not previously considered, demonstrates that there have been significant changes in factors or circumstances relied upon in reaching the final decision, demonstrates that the State Agency has materially failed to follow its procedures in reaching the final decision or provides such other basis for a public hearing as the State Agency determines to constitute good cause. A request for such a public hearing must be received within 30 days of the Commissioner's decision. The public hearing shall commence within 30 days of receipt of the request. The State Agency shall make written findings which give the basis for its decision within 45 days after conclusion of such public hearing.

(i) Upon the request of any affected person, the decision of the Commissioner to issue, deny, or null and void a Certificate of Need or to grant or deny an exemption shall be administratively reviewed by the State Agency. The request must be received within 30 days of the Commissioner's decision, and the review must commence within 30 days of receipt of the request. The decision of the reviewing agency must be made in writing within 45 days after the conclusion of the review and shall be sent to the person proposing the project, the person requesting the review, the appropriate Health Systems Agency, and to others upon request. The decision of the reviewing agency shall be considered the final decision of the State agency, unless the matter is remanded for further action or consideration.

(j) After the commencement of a public hearing in the course of review or a public hearing for reconsideration of a State Agency decision and before a decision is made, there shall be no ex parte contacts between any person acting on behalf of the applicant or holder of a Certificate of Need, or any person opposed to the issuance or in favor of nullification of a Certificate of Need and any person in the State Agency who exercises any responsibility for reviewing the application or nullification. Ex parte communication is defined as an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given. It shall not include requests for status reports on any matter or proceeding. Any communications made after commencement of the public hearing that are placed in the record of the proceedings are not ex parte and are not prohibited.

(k) If the State Agency's decision is contrary to the recommendation made by either the Health Systems Agency or the Statewide Health Coordinating Council, the State Agency shall submit to the appropriate organization a statement of the reasons for not accepting the recommendation. If the final decision is not consistent with the goals of the applicable health systems plan or the priorities of the applicable annual implementation plan, the State Agency shall submit to the appropriate Health Systems Agency a written, detailed statement of the reasons for the variation.

(l) The determination of the Health Care Administration Board is the final decision of the State Agency where the Commissioner of Health has defined a project application or where his decision is contrary to the recommendation of the Statewide Health Coordinating Council or the Health Systems Agency and a fair hearing is requested and held. After the Health Care Administration Board has denied a project or acted contrary to the Statewide Health Coordinating Council or health systems agency, such action may be appealed to the Appellate Division of the Superior Court.

(m) If the Department of Health determines that the holder of an approved Certificate is not making a good faith effort to implement the project, the Commissioner may, after considering any recommendation made by the appropriate health systems agency, null and void the Certificate. Prior to such a determination, the Department must notify the holder of the Certificate of its intent to initiate the nullification process. The holder of the Certificate shall have 30 days from the date of such notice to submit written, documentation regarding the significant or substantial progress (see N.J.A.C. 8:33-2.14(a) 1 and 2) which has been made in implementing the Certificate. Thereafter, the nullification process shall follow the procedure in N.J.A.C. 8:33-3.4 thru 3.6.

8:33-3.7 Criteria for state agency review

(a) Projects will be reviewed by personnel of the Department as deemed appropriate. Criteria adopted for reviews may vary according to the purpose for which a particular review is being conducted or the type of health service reviewed. Review evaluation, and recommendations will be based upon the following:

1. The relationship of the health service being reviewed to the applicable health systems plan, annual implementation plan, State Health Plan, other State plans and policies, and State health planning regulations.

2. The relationship of services reviewed to the long range development plan (if applicable) of the applicant.

3. The availability of less costly or more effective alternative methods of providing the services to be offered, expanded, reduced, relocated, or eliminated.

4. The immediate and long-term financial implications of the proposal as well as the probable effect of the proposal on the costs of and charges for providing health services by the applicant proposing the service, and the probable effect on the costs of providing services within the health delivery system in the area and the state. These financial implications include, but are not limited to:

i. Capital costs;

ii. Operating costs;

iii. Income to at least one year beyond break-even; and

iv. Estimated impact on the costs and revenues of other providers of the same service to the same service area.

5. The need that the population served or to be served has for the services proposed and the extent to which all residents of the area will have access to those services, particularly low income persons, racial and ethnic minorities, women, handicapped persons, other underserved groups, and the elderly.

i. In the case of a reduction or elimination of a service, including the relocation of a facility or service, the need that the population presently served has for the service, the extent to which that need will be met adequately by the proposed relocation or by alternative arrangements, and the effect of the reduction, elimination or relocation of the service on the ability to obtain needed health care of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups, and the elderly.

6. The contribution of the proposed service in meeting the health related needs of members of medically underserved groups which have traditionally experienced difficulties in obtaining equal access to health services (for example, low income persons, racial and ethnic minorities, women, and handicapped persons), particularly those needs identified in the applicable health systems plan, annual implementation plan, and State Health Plan and State health planning regulations as deserving of priority. For the purpose of determining the extent to which the proposed service will be accessible, the State Agency shall consider:

i. The extent to which medically underserved populations currently use the applicant's service in comparison to the percentage of the population in the applicant's service area which is medically underserved, and the extent to which medically underserved populations are expected to use the proposed services if approved;

ii. The performance of the applicant in meeting its obligation, if any, under any applicable Federal regulations requiring provision of uncompensated care, community services, or access by minorities and handicapped persons to programs receiving Federal financial assistance (including the existence of any civil rights access complaints against the applicant);

iii. The extent to which Medicare, Medicaid and medically indigent patients are served by the applicant;

iv. The ways the applicant offers a range of means by which a person will have access to its services (e.g., outpatient services, admission by house staff, admission by personal physician); and

v. How and to what extent the applicant will provide services to the medically indigent.

7. The relationship of the services proposed to be provided to the existing health care system of the area in which the services are proposed to be provided.

8. The availability of resources (including health personnel, management personnel, and funds for capital and operating needs) for the provision of the services proposed to be provided and the need for alternative uses of these resources as identified by the applicable health systems plan, annual implementation plan, State Health plan, and State health planning regulations.

9. The possible economies and improvements in services to be anticipated from the operation of joint central services for the regionalization of services.

10. The relationship, including the organizational relationship, of the health services proposed to be provided to ancillary or support services, if applicable.

11. The extent to which the health professions schools and professional training in the area will have access to the services for training purposes if it is a regional service.

12. Special needs and circumstances of those applicants which provide a substantial portion of their services on a statewide or regional basis.

13. The special needs and circumstances of HMOs. These needs and circumstances shall be limited to:

i. The needs of enrolled members and reasonably anticipated new members of the HMO for the proposed health services proposed to be provided by the organization; and

ii. The current availability of the new health service from non-HMO providers or other HMOs in a reasonable and cost-effective manner which is consistent with the basic method of operation of the HMO. In assessing the availability of these health services from these providers, the agency shall consider only whether the services from these providers:

(1) Would be available under a contract of at least five years duration;

(2) Would be available and conveniently accessible through physicians and other health professionals associated with the HMO. (For example - whether physicians associated with the HMO have or will have full staff privileges at a non-HMO hospital);

(3) Would cost no more than if the services were provided by the HMO; and

(4) Would be available in a manner which is administratively feasible to the HMO.

14. The special needs and circumstances of biomedical and behaviorial research projects which are designed to meet a national need and for which local conditions offer special advantages.

15. In the case of a construction project:

i. The costs and methods of the proposed construction, including the costs and methods of providing and conserving energy; and

ii. The probable impact of the construction project reviewed on the costs of providing health services by the person proposing the construction project and on the costs and charges to the public of providing health services by other persons.

16. The special circumstances for conserving energy.

17. The estimated impact on price competition for the service in comparison to the health care delivery system taken as a whole, including physician charges.

18. Improvements or innovations in the financing and delivery of health services which foster competition while maintaining quality and cost effectiveness.

19. The efficiency and appropriateness of using existing services and facilities similar to those proposed.

20. Evaluating the character and competence of the sponsor(s) based upon State licensure, survey records, or other information of State regulatory agencies.

21. Such other factors as may be established by regulation.

22. In the case of existing services or facilities, the documented quality of care provided by those facilities in the past.

23. When an application is made by an osteopathic or allopathic facility for a Certificate of Need to construct, expand, or modernize a health care facility, acquire major medical equipment, or add services, the need for that construction, expansion, modernization, acquisition of equipment, or addition of services shall be considered on the basis of the need for and the availability in the community of services and facilities for osteopathic and allopathic physicians and their patients. The State Agency shall consider the application in terms of its impact on existing and proposed institutional training programs for doctors of osteopathy and medicine at the student, internship, and residency training levels.

24. All access factors identified at N.J.A.C. 8:33-2.1.

8:33-3.8 Required findings on access

(a) For each project it approves, the State Agency shall make a written finding (which shall take into account the current accessibility of the facility as a whole) on the extent to which the project will meet the State Agency's criteria as specified in N.J.A.C. 8:33-2.1, 3.7(a)5 and 6 except in the following cases:

1. Where the project has been determined by a State or Federal agency to be mandatory; or

2. Where the project is a proposed capital expenditure not directly related to the provision of health services or to beds or major medical equipment; or

3. Where the project is projected by or on behalf of an HMO or a health care facility which is controlled, directly or indirectly, by an HMO.

(b) In any case where the State Agency finds that an approved project does not satisfy the State Agency's criteria based on the considerations in N.J.A.C. 8:33-3.7(a)5 or 6, it may, if it approves the application, impose the condition that the applicant take affirmative steps to meet those criteria.

(c) When this written finding is required, the State Agency, in evaluating the accessibility of the project, must take into account the current accessibility of the facility as a whole. If the State Agency disapproves a project for failure to meet the need and access criteria, it must so state in its written findings.

(d) In any case where the State Agency finds that a project does not satisfy the State Agency's criteria based on the considerations in N.J.A.C. 8:33-3.7(a)5 or 6, it shall so notify in writing the applicant and the appropriate Regional Office of the Department of Health and Human Services.

8:33-3.9 Functions of health systems agencies

(a) Each Health Systems Agency shall have as its primary responsibility the provision of effective health planning for its health service area and the promotion of the development within the area of health services, manpower, and facilities which meet identified needs, reduce documented inefficiencies, and implement the health plans of the agency. Proposed projects must be reviewed and recommendations developed in conformity with the health systems plan and annual implementation plan of the agency. Recommendations need not be based solely on policies established by the State or the Commissioner of Health since this would remove the consideration of areawide or local needs or circumstances from the review process.

(b) The specific responsibilities or activities expected of Health System Agencies are:

1. Assistance to the sponsor in the completion of appropriate application forms.

2. Written notification to affected persons of the beginning of a review, which shall include notification of the proposed schedule for the review, of the period within which a public hearing may be requested by persons directly

affected by the review, and of the manner in which notification will be provided of the time and place of any hearing so requested.

3. Provision for public hearing in the course of agency review if requested by one or more persons directly affected by the review.

4. Evaluation of the public need for each proposal with general consideration given to the items specified in the criteria for State Agency review (N.J.A.C. 8:33-3.7).

5. Provision for written findings which give the basis for any decision or recommendation made by the Health Systems Agency. Such findings must include the items specified in the required findings on access (N.J.A.C. 8:33-3.8).

6. Evaluation of the public need for each proposal with special consideration given to:

i. The conformity of the proposal with locally developed criteria and guidelines for planning health facilities, including conformity to local zoning requirements;

ii. The unique population characteristics of the service area involved, considering how it might affect the local demand for service including:

(1) The age-sex composition of the population;

(2) Changes in the population;

(3) The educational/employment level of the population;

(4) The population density and housing pattern of the area;

(5) Factors affecting travel and travel time in the area.

iii. The unique economic characteristics of the service area involved, vis-a-vis the proposal, including:

(1) The availability of disposable income;

(2) The availability of third party payment mechanisms;

(3) The availability of alternate service programs;

(4) The accessibility to and availability of health care services to medically underserved persons.

iv. The conformity of the proposal with the State Health Plan, the State Medical Facilities Plan, State planning regulations, and other applicable State criteria. If a waiver to a regulation or plan is requested, the following shall apply:

(1) Waivers to a planning regulation will be granted only if permitted in the language of the regulation itself. Waivers to the State Health Plan, State Medical Facilities Plan, or other applicable criteria will be considered only where justified on the basis of unique reasons. Such a waiver only will apply

to the specific project under review. Reasons for the waiver must be specified in writing by the Health Systems Agency to the Department.

(2) Where a Health Systems Agency board agrees that a waiver is justified, it must offer in the Health Systems Agency project abstract its specific reasons for supporting the waiver request.

(c) The following activities are not the responsibility of the Health Systems Agencies:

1. Involvement in architectural plans review of approved projects.

2. Construction monitoring of approved projects.

3. Determining compliance with Departmental licensure requirements.

(d) The following activities are not the primary responsibility of the Health System Agencies:

1. Evaluating the character and competence of the sponsor(s) based upon State licensure, survey records, or other information of State regulatory agencies.

2. Evaluating the financial competence of the sponsor(s) and the feasibility of the proposal based upon the records of the Health Economics Program of the Division of Health Planning and Resources Development.

(e) After the Health Systems Agency has completed its primary responsibility it may submit comments on N.J.A.C. 8:33-3.9(d) if it has the capabilities and time to do so.

(f) The Health Systems Agency may recommend changes in an application deemed complete and not subject to batching (as defined at N.J.A.C. 8:33-1.5(d)) as long as such recommended changes are within the limits identical to an administrative review. The Health Systems Agency and the applicant must inform the State in writing of any such changes at least one week before the Statewide Health Coordinating Council's Review Committee meeting.

8:33-3.10 Modification of applications

(a) No application for Certificate of Need shall be modified or altered by an applicant after the deadline date for application submission. Additional information shall be permitted only in direct response to written questions submitted to the applicant by the Department or the Health Systems Agency(ies) as specified at N.J.A.C. 8:33-3.3(c).

(b) Under no circumstances may an application be modified or altered to change the number or category of inpatient beds or any services after the application submission deadline date. An applicant desiring to make such a modification or alteration shall be required to withdraw the application from the current cycle and submit a new application for the next monthly review cycle or the next batch.

(c) Exceptions to a and b above may only be permitted in the case where a non-batched application is modfied or altered in a non-substantive way in the

Health Systems Agency review process. Non-substantive shall mean that the modification or alteration, if proposed separately, would either not require a Certificate of Need review or would only require a review through the administrative review process (see N.J.A.C. 8:33-3.9(f)).

8:33-3.11 Deferral of applications

(a) An applicant may request a deferral for up to a total of four (4) months or, for batched applications, into the next batch, whichever is shorter. If the applicant fails to reactivate the application within this time frame it will be declared withdrawn.

(b) The Health Systems Agency, the Statewide Health Coordinating Council or its Review Committee, or the Department may request an applicant to defer the review. Acceptance of such request for deferral is the option of the applicant. If an applicant does not accede to the deferral request the application shall continue under review. In batched applications, the deferral shall be into the next review cycle for that batched service.

(c) An applicant may accept a deferral request by one or more of the review agencies identified at 8:33-3.11(b) for a period not to exceed one year. Such a deferred applicant may be required by the Department to submit updated information prior to reactivation of the application. If for any reason such a deferred application is not acted on within the one year period, the applicant will be required to submit a new application.

1. Reactivated applications with no changes or with only a change in cost shall continue in the review process from the point of deferral.

2. Reactivated applications with any change in project scope will be treated as a new application and subject to full review beginning at the local level.

(d) When a deferral is requested or accepted by an applicant, the applicant shall provide written confirmation.

(e) The Department of Health will not accept any requests for a deferral once the Statewide Health Coordinating Council's Review Committee has made its recommendation.

8:33-3.12 Conditions on approval

(a) Conditions may be placed on Certificate of Need approval if they relate to material presented in the application itself, are prescribed in State regulation, relate to the criteria specified in N.J.A.C. 8:33-3.7, or promote the intent of Chapters 136 and 138, Laws of New Jersey 1971 (N.J.S.A. 26:2H-1 et seq.).

(b) Any conditions placed on a Certificate of Need approval shall become part of the licensure requirements of the approved facility.

(c) When conditions are included in the Commissioner of Health's approval letter, the applicant must file a progress report on meeting such conditions with the Certificate of Need Program at least 12 months from the date of approval and at any other time when requested by the Department in writing. Failure to file such reports may result in the nullification of the approved Certificate of Need or fines and penalties imposed through licensure action.

SUBCHAPTER 4. ADMINISTRATIVE REVIEW PROCESS

8:33-4.1 Statement of purpose

(a) The administrative review process may be used in the following situations:

1. Emergency situations which demand rapid action;

2. The size of the project in relation to that of the facility argues against major expenditure of effort in review; and,

3. The Commissioner determines that flexibility of the review process is critical.

(b) Applications will be reviewed to determine the completeness of the required information.

(c) The appropriate Health Systems Agency(ies) shall be notified prior to the beginning of the administrative review process.

(d) The timetable for the review period is as follows:

1. Deadlines for initial submission of applications shall be no later than the fifteenth day of the month preceding the beginning of a review cycle.

2. Within 15 days of the end of the filing deadline, the Department shall notify the applicant of the completeness status of the application.

3. A decision by the Commissioner of Health is generally forthcoming within 45-60 days. The appropriate Health Systems Agency(ies) will be notified of this decision.

(e) Administrative reviews do not include the Statewide Health Coordinating Council. The Health Systems Agency has the option of reviewing applications under the administrative review process but must do so within the identified time frames.

(f) The determination of whether or not a project is eligible for processing under the administrative review process rests with the Department of Health.

(g) Applications for administrative review may be obtained from and must be filed with:

Certificate of Need Program
New Jersey State Department of Health
CN 360
Health-Agriculture Building
John Fitch Plaza
Trenton, New Jersey 08625 (609) 292-6552

8:33-4.2 Transfer of ownership/services

(a) Only the ownership of an existing, licensed health care facility, or licensed, existing beds, services, or equipment is transferable.

(b) Minimum information required for review shall include the following:

1. Trade name of facility.

2. Indication of type of facility, i.e., nursing home, hospital, etc.

3. Corporations:

i. For privately held corporations, information required for review shall include:

(1) Latest financial statements of the existing health care facility.

(2) Latest Medicaid cost report, if any, of the existing health care facility.

(3) Current rates and other charges.

(4) List of all present stockholders, percentage of shares held, names of directors and officers before acquisition or transfer.

(5) Change of directors, officers, lessee and/or operator(s) if any, due to acquisition or transfer, including changes resulting from leases or similar transactions.

(6) Where interest is being acquired by transfer, list name or names of all stockholders transferring, percentage of interest before transfer, percentage of interest being transferred; list all parties to whom interest is transferred and the percentage of interest each will hold.

(7) Name of legal counsels if any, representing parties transferring under (b) 3i.(6) above.

(8) List any financial business transactions the prospective owner and/or operator and lessee(s), if any, has had directly or indirectly with the health care facility within the last three years.

(9) List number of patient days, staffing pattern and operating expenses for the most current year prior to the transfer and the first full year after the transfer occurs.

ii. For public corporations, information required for review shall include:

(1) Items in (b) 3i.(1) through (3), (5), and (8) through (9) above required by privately held corporations must be completed;

(2) Where interest is not being purchased on a public exchange list name or names of stockholders transferring, percentage of interest before transferred, percentage of interest being transferred by each; list all parties to whom interest is transferred and the percentage of interest each will hold.

(3) Name of legal counsel, if any, representing parties transacting under (2) above.

iii. For newly formed or existing corporation purchasing physical assets, information required shall include:

(1) Copy of contract of purchase.

(2) Items in (b) 3.i(1) through (3), (5), and (8) through (9) above required by privately held corporations must be completed; list all parties to whom interest is transferred and the percentage of interest each will hold.

(3) Financial statements of newly formed or existing corporation before acquisition of physical assets.

(4) Pro-forma statements reflecting cost of physical assets at acquisition.

(5) Name of Legal Counsels representing parties.

4. For partnerships, information required for review shall include:

i. Latest financial statements of the existing health care facility;

ii. Latest Medicaid cost report, if any, of the existing health care facility;

iii. Current rates and other charges;

iv. List of present partners, percentage of capital interest;

v. List of partners and/or operators and/or lessees after acquisition and percentage of capital interest being transferred by each;

vi. List of all partners after transfer, percentage of capital interest, name of partner or partners transferring, percentage of capital interest being transferred by each;

vii. Name of legal counsel, if any, representing parties transacting under subparagraph v. or vi. of this paragraph;

viii. List any financial business transactions the prospective partner and/or lessee, and/or operator has had directly or indirectly with the health care facility within the last three years;

ix. List number of patient days, staffing pattern and operating expenses before the transaction and projected.

5. For newly formed or existing partnership purchasing physical assets, information required for review shall include:

i. Copy of contract of purchase.

ii. Subparagraphs (b) 4 i.-iv., vi., and viii.-ix. above must be completed;

iii. Financial statements of newly formed or existing partnership before acquisition of physical assets;

iv. Pro-forma and appraisal statements reflecting cost of physical assets at acquisition;

v. Name of legal counsel representing parties.

6. For proprietorship, information required for review shall include:

i. Copy of contract of purchase;

ii. Latest financial statements of the existing health care facility;

iii. Latest Medicaid cost report, if any, of the existing health care facility;

iv. Current rates and other charges;

v. Financial statement of prospective owner and/or lessee and/or operator prior to acquisition, including changes resulting from leases or similar transactions;

vi. Pro-forma statements reflecting cost of physical assets at acquisition;

vii. Name of legal counsels representing parties;

viii. List any financial transactions the prospective owner and/or lessee and/or operators has had directly or indirectly with the health care facility within the last three years;

ix. List number of patient days, staffing pattern and operating expenses before the transaction and projected.

7. Give a complete description of the financing of the acquisition or transfer:

i. Where payment is made in full or in part with other than cash give description of item or items, date acquired, cost at acquisition, depreciation, if any, and method of determining payment value if greater than book value. State if prospective owner (stockholders, partnership, or individual) ever had directly or indirectly an interest in the item or items being transferred;

ii. A schedule of long term loans, mortgages, notes and other payables owed by the prospective owners;

iii. A list of names and addresses of individuals, partnerships or corporations holding the liabilities. Identify amount, method of payment, and any interest thereon.

8. A description of any lease or rental arrangements and a copy of documentation of such arrangements.

9. A copy of the latest governmental property tax assessment which indicates the value of the facility and land.

(c) The following principles shall apply in the review of applications for the transfer of services from an acute care hospital:

1. A Certificate of Need is required whenever a hospital wishes to transfer to another corporate entity, in whole or in part, any patient care service as defined in N.J.A.C. 8:33 (Exhibits 3A and 3B).

2. The applicant must document in writing in the application that the following will be the policy at the transferred service:

i. Any such service transferred in whole must provide indigent care at the same level as provided for that same service in the two (2) years preceding the application or at a level commensurate with other hospitals in the area over the preceding two years, whichever is greater.

ii. Any such service transferred in part must, together with the applicant hospital, provide in the aggregate the same level of indigent care as provided for that same service in the two years preceding the application or at a level commensurate with other hospitals in the area over the preceding two years, whichever is greater.

3. The applicant must document at the time of application that implementation of the proposed transfer of service will not violate any bond covenant or any loan and security agreement between itself and the New Jersey Health Care Facility Financing Authority or any other financing agency.

4. At the time of application, the applicant must provide a quality assurance and review program for the health services to be provided and agree in writing that such a program will be implemented at the proposed service.

5. No portion of the operating or capital costs incurred by or related to the proposed service will be incorporated into rates approved for the acute care hospital transferring the service. Any losses generated by this proposed service cannot be used as a justification for increases in the rates of the acute care hospital transferring the service.

6. It is expected that any surpluses generated from the operation of the transferred service will be dedicated to support, either directly or indirectly, health care services provided by either the hospital from which the services were transferred or by the entity actually providing the transferred service.

(d) Applications shall be reviewed by appropriate staff within the Department of Health for the purpose of providing information to the Commissioner to assist in the final decision.

(e) As identified at N.J.A.C. 8:33-2.10 the transfer of ownership of any licensed general acute care hospital, special hospital and psychiatric hospital shall follow the full review process and may not be processed under administrative review.

(f) Within 45 days after initiation of the review cycle, a decision from the Commissioner shall be forthcoming.

8:33-4.3 Mandatory replacement of equipment and renovations to existing facilities

(a) When the health and safety of the patient is immediately at risk, and the capital costs exceed the thresholds identified in Subchapter 1 of this Chapter, an application for administrative review must be filed.

(b) Minimum information required for review shall consist of:

1. A project description, capital cost and operating cost, square footage (if any), service(s) affected, completion date, equipment involved, source of funds and other relevant information.

2. Justification for the proposed project should include:

i. An explanation of the mandatory nature of the replacement, including opinions regarding hazards and safety effects upon patient care by experienced professionals, or notification from Federal, State, county or municipal governmental agencies. The Department shall make the determination about the mandatory nature of the project;

ii. A narrative explanation of how the project will foster economies, if any, within the patient charge structure;

iii. Utilization statistics both inpatient and outpatient that demonstrate the necessity for the equipment or structure;

iv. Age of equipment to be replaced and/or structure to be renovated.

(c) Applications shall be reviewed by appropriate staff within the Department of Health for the purpose of providing information to assist the Commissioner in making the final decision.

(d) Within 45 days after initiation of the review cycle, a decision from the Commissioner shall be forthcoming.

8:33-4.4 Optional replacement of equipment

(a) Applicants may request replacement equipment acquisitions to be reviewed under the administrative review process.

(b) The administrative review process may be used only if the new equipment maintains existing capability and does not include upgrading to a newer technology that expands the range of service.

(c) The Department, in consultation with the appropriate Health Systems Agency(ies), shall determine during the completeness review period whether or not the application shall be reviewed under the administrative review process. If it is determined that an administrative review is not appropriate, the applicant shall be notified in writing after the completeness review period. The applicant may elect to have the application be reviewed under the full review process and submit the required additional filing fee; or the applicant may elect to withdraw the application and submit a new one. In either event, if the application is deemed to

require a full review, it will, if applicable, fall under the batching requirements identified at N.J.A.C. 8:33-1.5(d).

(d) Minimum information required for review shall consist of:

1. An explanation of what is to be done, square footage (if any), services affected, completion date, equipment involved, source of funds, and other relevant information;

2. A description of why the present equipment must be replaced, including age of equipment, downtime, repair costs, and safety factors.

3. Utilization statistics, both inpatient and outpatient, that demonstrate the necessity for the equipment to be maintained.

4. Identification of the capital costs, operating costs and revenues, if appropriate, to one year beyond break-even. Also, identification of all cost savings, if appropriate.

5. An explanation of the disposal of the equipment that is being replaced. If the equipment will be retained for "back-up", the new equipment shall be considered an addition to the service and shall not be eligible for consideration under the administrative review process.

(e) Applications shall be reviewed by appropriate staff within the Department for the purpose of providing information to assist the Commissioner in making the final decision.

(f) Within 45 days after initiation of the review cycle, a decision from the Commissioner shall be forthcoming.

8:33-4.5 Expenditures for studies, surveys, designs, architectural drawings and so forth under $150,000 but more than $50,000

(a) Minimum information required shall consist of:

1. The purpose of study.

2. The source of funds.

3. The name and address of consulting firm, if any, with which the facility has contracted or anticipates to contract and reasons for use of an outside consultant.

4. The amount to be expended.

(b) Applications shall be reviewed by appropriate staff within the Department of Health for the purpose of providing information to assist the Commissioner in making the final decision.

(c) Within 45 days after initiation of the review cycle, a decision from the Commissioner shall be forthcoming.

8:33-4.6 Extensions of implementation dates

(a) A request for an extension of the time set in the Commissioner's letter of approval to implement a project must be filed at least 60 days prior to such deadline.

(b) A request for an extension of time may be granted only if the applicant has documented that substantial progress towards completion of the project has occurred. Substantial progress is defined at N.J.A.C. 8:33-2.14(a)2.

(c) A copy of the request for the extension shall be filed with the appropriate Health Systems Agency(ies). Such agency shall forward its recommendation to the Department.

(d) Minimum information required for review includes:

1. Date of original approval.

2. Information delineating previous extensions requested and approved.

3. Amount of additional time requested.

4. Reasons justifying necessity for extension:

i. Such reasons should include any supporting documentation such as letters from zoning boards, licensure departments, municipalities, or other regulatory bodies.

(e) Applications shall be reviewed by appropriate Departmental staff, and Health Systems Agencies who shall report to the Certificate of Need Program within 45 days after receipt of a completed application.

(f) Within 45 days after initiation of the review cycle, a decision from the Commissioner shall be forthcoming.

8:33-4.7 Change in cost, financing or scope

(a) Approved applicants whose projects increase in cost as defined in Subchapter 1 of this chapter and/or whose total square footage changes as defined in N.J.A.C. 8:33-2.11(a)3.v. must file for a change in cost and/or scope.

(b) Minimum information required includes:

1. New project costs by category, that is, architectural fees, major movable equipment, renovation contracts, and so forth; new square footage.

2. Justification for increase by category including such factors as but not limited to economic factors, licensure requirements, grant requirements, and so forth; justification for any changes in total square footage.

3. If there is to be a new financing alignment, describe what it will be with supporting documentation and the reasons for the change.

(c) The Certificate of Need Program shall circulate to appropriate staff the change in cost applications for review and comment and forward to the Commissioner of Health for a final decision.

(d) Within 45 days after initiation of the review cycle, a decision from the Commissioner shall be forthcoming.

8:33-4.8 Change in the number of categorically licensed beds; increase in total number of residential health care beds up to 10 beds or 10 percent whichever is less.

(a) Applicants for a change in the number of categorically licensed beds as defined in Subchapter 1 of this chapter may file for an administrative review.

(b) Minimum information required includes:

1. Number of beds to be reclassified by licensed category; or,

2. Number of residential health care beds to be added.

3. Such factors as necessary to justify the project including description of service area, effect on operating expenses, current utilization rates and utilization trends by service, required changes in staffing patterns, assurances that the impact on existing and approved facilities will foster optimum utilization and factors affecting travel time in area and availability of manpower for staffing.

(c) Applications shall be reviewed by appropriate Departmental staff and Health Systems Agencies who shall respond to the Certificate of Need Program within 20 days upon receipt of a complete request.

(d) Within 60 days after initiation of the review cycle, a decision from the Commissioner shall be forthcoming.

8:33-4.9 Decrease in total number of licensed beds

(a) Applicants for a decrease in the total number of licensed beds as defined in Subchapter 1 of this chapter may file for an administrative review.

(b) Minimum information required includes:

1. Explanation of beds by service involved in the project, number of beds affected, services affected, and total number of beds available at the completion of the project.

2. Description of service area to be affected, including such demographic information as necessary to justify the program.

3. Impact on existing facilities in the service area.

4. Utilization and utilization trends for all services affected by the change.

5. Required changes in staffing patterns.

6. Effect on operating expenses.

(c) Applications shall be reviewed by appropriate Departmental staff and Health Systems Agencies who shall respond to the Certificate of Need Program within 45 days after receipt of a completed application.

(d) Within 60 days after initiation of the review cycle, a decision from the Commissioner shall be forthcoming.

8:33-4.10 Mandatory new health care services

(a) When it becomes necessary to implement a new health care service as a result of Federal, State, county or municipal governmental requirements, applicants may file for an administrative review.

(b) Minimum information required for review includes:

1. An explanation of the proposed service.

2. Documentation of the mandatory nature of the service.

3. Cost impact information which includes capital costs, operating costs and revenues to one year beyond break-even.

4. Projected utilization statistics.

(c) The Department shall determine the mandatory nature of the project.

(d) Application shall be reviewed by appropriate staff within the Department of Health for the purpose of providing information to assist the Commissioner in making the final decision.

(e) Within 45 days after initiation of the review cycle, a decision from the Commissioner shall be forthcoming.

8:33-4.11 Telephone systems and computer systems

(a) Applicants for telephone and computer systems may file for an administrative review.

(b) Minimum information required for review includes:

1. Type of equipment to be acquired.

2. Total purchase cost value, financing arrangements, and financing sources.

3. Utilization statistics, both inpatient and outpatient, that show the necessity for the equipment to be acquired and maintained.

4. Effect of the acquisition on the economics of the cost center where it will be placed and the effect on the patient charge structure.

(c) Applications shall be reviewed by appropriate staff within the Department of Health for the purpose of providing information to assist the Commissioner in making the final decision.

(d) Within 60 days after initiation of the review cycle, a decision from the Commissioner shall be forthcoming.

8:33-4.12 Demonstration or research project

(a) Applicants for a demonstration or research project may file for an administrative review. It is mandatory that an applicant verify in writing with the Department that the proposed project may be considered as a demonstration or research project (see N.J.A.C. 8:33-2.12).

(b) Minimum information required shall be:

1. A completed Certificate of Need application form.

2. The project narrative must address the specific criteria and standards for licensure which will be studied, if appropriate.

3. The duration of the demonstration period must be specified.

4. The evaluation criteria must be specified.

(c) The review process rules are as follows:

1. Simultaneously with the filing of an application with the Certificate of Need program, a copy shall be sent to the Health Systems Agency in which the project is located. The Health Systems Agency will forward its recommendation to the Commissioner within 30 days after receipt of the application.

2. If appropriate, the Commissioner of Health shall appoint an advisory committee for the project. If the advisory committee is appointed to review the application, it will forward its comments directly to the Commissioner within 30 days after receipt of the application.

(d) Within 45 days after initiation of the review cycle, a decision from the Commissioner shall be forthcoming if it is done under administrative review.

(e) Evaluation period rules are as follows:

1. An approved Certificate of Need for a demonstration or research project shall be conditionally issued for the life of the project. During the conditional period, the Alternative Health Systems program will monitor the project and make reports when necessary to the Commissioner. Project evaluation reports will be solicited from the Health Systems Agency in which the project is located. Copies of all project evaluation reports will be sent to all the health systems agencies for information purposes.

2. Upon completion of the demonstration period, final project reports including any evaluations conducted will be submitted by the project director and Department staff to the Commissioner, the advisory committee and the Health Systems Agencies.

3. The Advisory Committee will review and advise the Commissioner on each demonstration or research project which has shown unproductive results. The Commissioner may consider this advice and any other pertinent data before making a final determination of revocation of a Certificate of Need.

4. After the demonstration period, if the project has been determined successful, the State Licensing, Certification and Standards Service will be requested to develop criteria and standards for licensure, when appropriate.

8:33-4.13 Energy conservation projects

(a) When an applicant wishes to expend capital funds in excess of the criteria outlined in N.J.A.C. 8:33-1 and 2 and the project exclusively involves energy conservation, such applicant may file for administrative review.

(b) Minimum information required for review includes:

1. An explanation of what is to be done, including capital cost and operating cost, square footage (if any), completion date, materials used, equipment involved, source of funds and other relevant information.

2. Justification for the proposed project should include:

i. A narrative explanation that documents that the facility has established an energy data baseline which is normalized for climatic changes;

ii. A narrative explanation of how the proposed project will influence the normalized energy data baseline;

iii. An explanation of how the existing recommendations for energy conservation opportunities for the area to be renovated will be affected by the current application.

(c) Applications shall be reviewed by appropriate staff within the Department of Health for the purpose of providing information to assist the Commissioner in making the final decision.

(d) Within 45 days after initiation of the review cycle, a decision from the Commissioner shall be forthcoming.

8:33-4.14 Relocation of an approved project within the same county

(a) Applicants for the relocation of an approved project within the same county may file for an administrative review provided that the relocation is not from a municipality with a population greater than 50,000. However, as indicated at 8:33-2.11 (a) 3.iv, after consultation with the appropriate Health Systems Agency concerning access, the Department may determine that the proposed relocation shall be subject to full review.

(b) Minimum information required for review includes:

1. An explanation of what is to be done and a justification of the proposed relocation. This shall include the effects of the relocation on capital and operating costs; financing; access of the population the original approval was to serve; programmatic or service changes; and changes in patient mix, charges, or fees.

2. Impact on existing facilities in the proposed new location.

3. Revised dates of implementation of the Certificate.

(c) The Certificate of Need Program shall circulate to appropriate staff such applications for review and comment and forward to the Commissioner of Health for a final decision.

(d) Within 45 days after initiation of the review cycle, a decision from the Commissioner shall be forthcoming.

8:33-4.15 Architectural and cost review of hospital construction/modernization/ renovation projects

(a) After a hospital applicant has satisfied the requirements identified at 8:33-2.7(a) 11 for projects with a total project cost of $10 million or more, such applicant shall file for the administrative review of the specific construction/ modernization/renovation option chosen.

(b) Minimum information required includes:

1. Outline of all construction options that were considered.

2. Reasons that the specific option requested for review was chosen.

3. Capital cost estimates for all options.

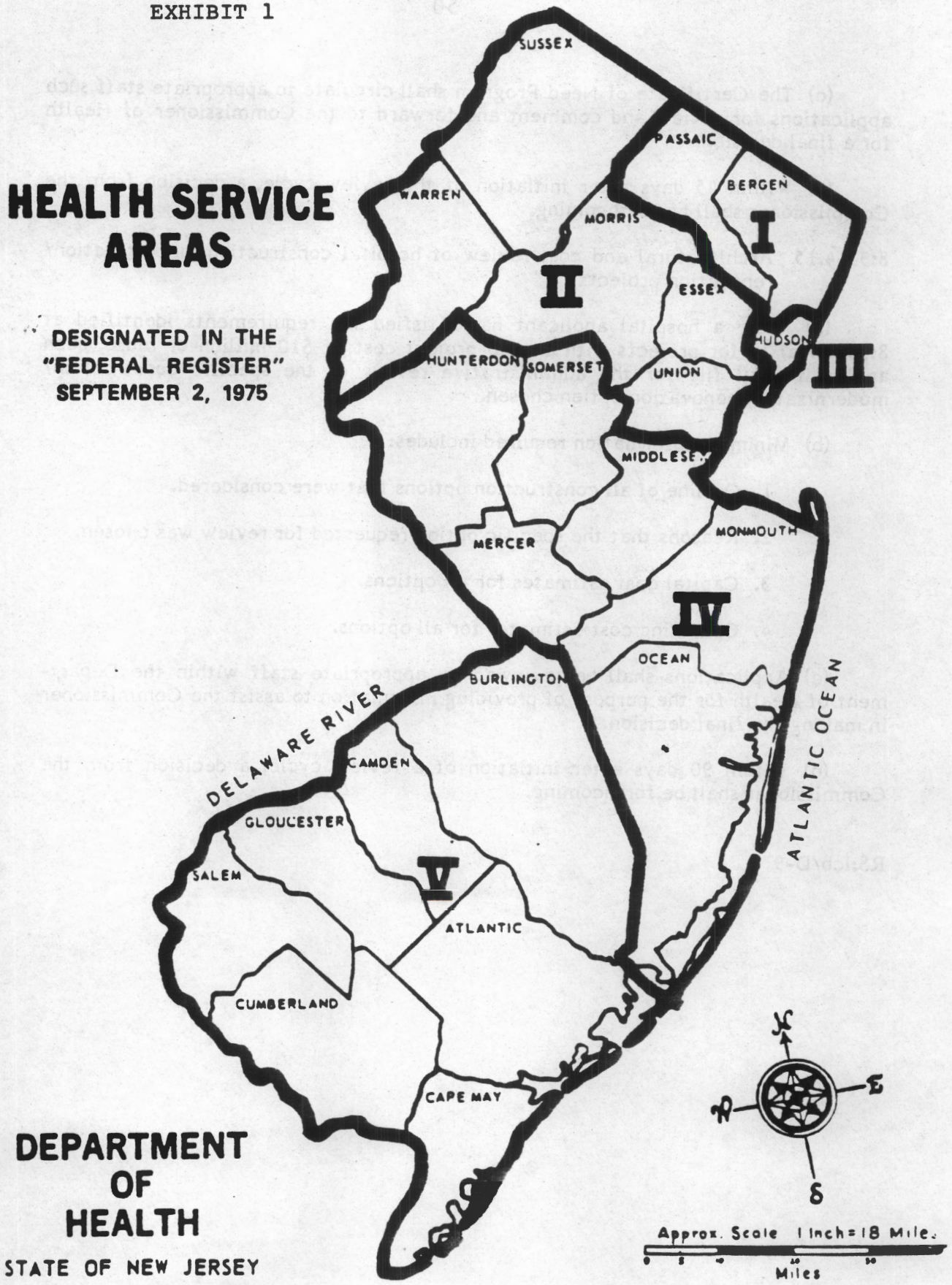
4. Operating cost estimates for all options.

(c) Applications shall be reviewed by appropriate staff within the Department of Health for the purpose of providing information to assist the Commissioner in making the final decision.

(d) Within 90 days after initiation of a review cycle, a decision from the Commissioner shall be forthcoming.

RS:lcb/D-9

EXHIBIT 1



P-231

EXHIBIT 2

HEALTH SYSTEMS AGENCIES IN NEW JERSEY

Area I	Bergen-Passaic Health Systems Agency 15-01 Broadway Fairlawn, New Jersey 07410 Marvin Burton, Executive Director (201) 794-8640	Bergen Passaic
AREA II	Regional Health Planning Council 8-10 Park Place Newark, New Jersey 07102 Martin Parker, Executive Director (201) 622-3280	Essex Morris Sussex Union Warren
AREA III	Hudson Health Systems Agency 871 Bergen Avenue Jersey City, New Jersey 07306 Jesse Huang, Executive Director (201) 451-5024	Hudson
AREA IV	Central Jersey Health Planning Council, Inc. CN 5259 Princeton, New Jersey 08540 Edward Peloquin, Executive Director (609) 452-2320	Mercer Middlesex Monmouth Hunterdon Ocean Somerset
AREA V	Southern NJ Health Systems Agency, Inc. Kor-Center East Interstate Industrial Park Bellmawr, New Jersey 08030 Daniel Apostolu, Executive Director (609) 933-0641	Atlantic Burlington Camden Cape May Cumberland Gloucester Salem

EXHIBIT 3A

STANDARD CATEGORIES OF HEALTH CARE SERVICES

Note: **The installation or implementation of any of the specified health care services as shown below, which have not been previously provided by the health care facility will require a Certificate of Need. Please refer to Exhibit 3B for a sample listing of health services which lie within the STANDARD CATEGORIES.**

A. **Bed-related**

1. **Medicine, surgery**
2. **Obstetrics, gynecology**
3. **Pediatric**
4. **Intensive care (ICU)**
5. **Cardiac care (CCU)**
6. **Rehabilitation**
7. **Long term care**
8. **Residential health care**
9. **Adult acute psychiatric**
10. **Adult sub-acute psychiatric**
11. **Children's acute psychiatric**
12. **Children's sub-acute psychiatric**
13. **Alcohol detoxification**
14. **Alcohol residential treatment**
15. **Drug free residential (therapeutic community)**

B. Non-bed-related

1. Outpatient and clinic services
2. Emergency room services
3. Diagnostic radiology
4. Nuclear medicine
5. Laboratory services
6. Physical medicine
7. Dentistry
8. Vocational/disability services
9. Social services
10. Home health agency
11. Drug rehabilitation-outpatient drug free
12. Alcohol rehabilitation
13. Free-standing health screening centers
14. Mobile multiphasic health testing services
15. Outpatient mental health care
16. Partial hospitalization
17. Mental health emergency/screening
18. Drug rehabilitation-detoxification/maintenance

C. Special Services

1. Renal dialysis
2. Cardiac diagnostic services
3. Burn center

4. Neurosurgery
5. Cardiac surgical services
6. Organ transplant/organ procurement
7. Therapeutic radiation
8. Organ bank
9. Blood bank
10. Perinatal intensive care
11. Health maintenance organizations
12. Hemophilia services
13. Hospice program
14. Any service for which regionalization criteria or health planning regulations have been developed
15. Mobile intensive care services
16. Computed tomographic (CT) scanning services
17. Medical day care
18. Other new health/medical care technologies

EXHIBIT 3B

HEALTH CARE SERVICES
WITHIN THE STANDARD CATEGORIES

Note: **Within some of the STANDARD CATEGORIES OF HEALTH CARE SERVICES are those component services which are considered to be sub-elements of such CATEGORIES. The component services are listed below and shown within the appropriate STANDARD CATEGORY. If any health facility or organization is currently providing one or more component services within a STANDARD CATEGORY the implementation of additional component services within that STANDARD CATEGORY shall not be regarded as the institution of a new health care service. Thus, the addition of a component service within a previously existent STANDARD CATEGORY shall not require a Certificate of Need application provided that the institution of the service does not exceed the monetary limits as stated in N.J.A.C. 8:33.**

A. Bed-related

1. Medicine Surgery

Component Services:

Allergy	General
Anesthesiology	Ophthalmology
Communicable Disease	Thoracic
Dermatology	Otorhinoloryngology
Endocrinology	Proctology
Gastroenterology	Orthopedic
Cardiac Care (Non-CCU)	Urology
Physical and Medical Evaluation	Cystoscopy
Family Practice	Oral
Internal Medicine	Plastic
Pulmonary Function and Inhalation Therapy	
Geriatric	
Urology	
Eye, ear, Nose, Throat	
Neurology	

2. Obstetrics, gynecology
3. Pediatric
4. Intensive care (ICU)
   (All ICU excluding separate Cardiac Care Unit and separate Neo-Natal Intensive Care Unit)
5. Cardiac Care (CCU)
6. Adult acute psychiatric

Component Service:
Mental Health Emergency/Screening

7. Adult sub-acute psychiatric
8. Children's acute psychiatric
9. Children's sub-acute psychiatric
10. Rehabilitation
11. Long term care
12. Residential health care
13. Alcohol detoxification
14. Alcohol residential treatment
15. Drug free residential (therapeutic community)

B. Non-bed-related

1. Outpatient and Clinic Services

Component Services:

Allergy
Arthritis
Cardio-vascular
Cerebral Palsy
Cystic Fibrosis
Dermatology
Diabetes
Employee Health
Endorcinology
Eye, Ear, Nose, Throat
Family Planning
Genito-Urinary
Glaucoma
Gynecology
Hypertension
Inoculation
Medical
Muscular Dystrophy
Neurology
Obstetrics
Parasitology
Pediatrics
Podiatry
Proctology
Psychiatric
Sickle Cell Anemia
Speech
Hearing
Surgery
Thoracic
Toxemia
Tuberculosis
Tumor Cancer
Venereal disease
Diagnostic and
Preventive Medicine
Private Ambulatory Service
Home Care Program
Out-Reach Clinic
Ambulance Service affiliate
with a health care facility
Day Accomodation Surgery

2. Emergency Room Services

3. Diagnostic Radiology

Component Services:

Diagnostic X-ray
Cinefluorography
Ventriculography
Angio-Cardiology

4. Nuclear Medicine

5. Laboratory Services

Component Services:

Microbiology
Clinical Chemistry
Serology
Hematology
Pathology
Histopathology
Autopsy
Basal-Metabolism

6. Physical Medicine

Component Services:

Physical Therapy
Occupational Therapy
Speech Therapy
Recreational Therapy
Audiology
Prosthetics, Brace Fitting

7. Dentistry

Component Services:

Oral Surgery
Operative/Restorative Dentistry
Endodontia
Prostodontia
Periodontia
Orthodontia

8. Vocational Services Disability Services

Component Services:

Vocational Evaluation
Vocational Counseling
Pre-Vocational Experiences
Special Education Services
Vocational Training
Sheltered Employment
Travel Training for the Blind
Deafness
Blindness
Tuberculosis
Cardiac Conditions
Orthopedic Conditions
Neurology

9. Social Services

Component Services:

Social Casework Department
Family Planning Service
Recreation (non-medical)
Social Study and Evaluation
Social Group Work

10. Home Health Agency
11. Drug Rehabilitation - outpatient drug free
12. Drug rehabilitation - detoxification/maintenance
13. Alcohol rehabilitation

14. Free-standing health screening centers
15. Mobile multiphasic health testing services
16. Outpatient mental health care
17. Partial hospitalization
18. Mental health emergency screening

C. Special Services

1. Renal Dialysis
2. Cardiac Diagnostic Services
3. Burn Center
4. Neurosurgery
5. Cardiac Surgical Services
6. Organ transplant/organ procurement
7. Therapeutic Radiation

Component Services:

X-Ray Therapy
Orthovoltage X-Ray Therapy
Radium Therapy
Megavoltage X-Ray Therapy
Gamma Beam Therapy

8. Organ Bank
9. Blood Bank
10. Perinatal Services
11. Health Maintenance Organizations
12. Hemophilia Services
16. Computed tomographic (CT) scanning services
17. Medical day care
18. Position emission tomography services
19. Magnetic resonance imaging services