

# Group homes — how to spot legal scare tactics

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PHOTO BY

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staff writer

A FEW YEARS ago this writer worked as a "community relations coordinator" for the Association for Retarded Citizens/Oakland County. This is a parent-friend-concerned-citizen group advocating for the mentally retarded.

This is to let you know exactly the values of the writer. The laws quoted here are fact. Anyone can get his or her own copy.

The writer is pro community placement as simply an extension of the civil liberties to which all Americans have a right.

For the mentally retarded, that civil liberty is constantly in jeopardy. Local governments and private citizens continue to invent ways to bar them from living in ordinary homes in ordinary neighborhoods.

ONE MAIN problem with community placement is that it is complicated and confused because two laws are involved in the actual physical plant of community placement, i.e. the group home.

The confusion leads to "scare" tactics. Opponents of community placement use bits and pieces of laws to reinforce their opposition.

The most common bit of confusion arises over the very term itself or rather what it involves. Foster care facility is the blanket term that includes group homes. A common complaint when a "small group home" attempts

to open in a neighborhood is that it is licensed for 12 people.

Opponents who have done a little research will even have a copy of a law that says exactly that. And they're right. A "small group home" is licensed for 12 people. But while it may be licensed for 12, it may only house as many as the neighborhood in which it is located is zoned for.

WHAT MANY fail to understand about community placement is that two laws are involved: a licensing act (218 of 1979) and a zoning act (the Zoning and Community Placement Acts of 1979).

The licensing act defines and sets standards for licensing. The Michigan Department of Social Services (DSS) is the licensing agency.

There are several kinds of group homes:

- Small group — 12 or fewer residents.
- Congregate — for more than 20.
- Family — no more than six and license must be a member of family who lives in the home.
- Large group home — 12 to 20.

Anyone may apply to DSS for a license. If they meet all the requirements, DSS must grant a license.

BUT A LICENSE does not guarantee the home can open unless it is located in a zone where it is legal. A congregate-care facility could not open in a single-family-zoned area without consent of the local zoning board.

The only group home which auto-

## commentary

matically may locate in a single-family neighborhood is one that has six or fewer residents. And it may not do so if there is another home less than 150 feet away.

The six-person group home is exempt from local zoning regulations under the Zoning and Community Placement Acts, which have been upheld by several circuit courts and the state Court of Appeals.

Here is the relevant paragraph in the act:

"In order to implement the policy of this state that it is in the best interests of the community that persons with mental retardation be housed in the community, a state licensed residential facility providing residential care, or both, to a person with mental retardation shall be considered a residential use of the property for the purposes of zoning and a permitted use in all residential zones, including those zones for single-family dwellings, and shall not be subject to a special use or conditional use permit or procedure different from those required for other

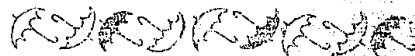
dwellings of similar density in the same zone."

THAT'S IT — very simple, very easy to understand. In fact, the act says nothing about small group homes, large group homes, or "congregate" group homes. It talks only about residential facilities for six or fewer persons.

Since the advent of community placement, the term "small group home" has become synonymous with the group home opening in single-family

areas. Perhaps things would have been simpler if the language of the act concerning not being zoned together with those who live in the same zone had been more specific. But the act is what it is.

And it is a shame that even in this day and age the mentally retarded are looked upon with suspicion and fear and people have to write editorial letters hoping to make things easier for them.



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