

Saint Louis University Public Law Review

Volume 19
Number 2 *Representing the Poor and
Homeless: Innovations in Advocacy (Volume
XIX, No. 2)*

Article 13

2000

Affordable Housing: Can Nimbyism Be Transformed into Okimbyism

Peter W. Salsich Jr.
Saint Louis University School of Law, salsichp@slu.edu

Follow this and additional works at: <https://scholarship.law.slu.edu/plr>



Part of the [Law Commons](#)

Recommended Citation

Salsich, Peter W. Jr. (2000) "Affordable Housing: Can Nimbyism Be Transformed into Okimbyism," *Saint Louis University Public Law Review*: Vol. 19 : No. 2 , Article 13.
Available at: <https://scholarship.law.slu.edu/plr/vol19/iss2/13>

This Article is brought to you for free and open access by Scholarship Commons. It has been accepted for inclusion in Saint Louis University Public Law Review by an authorized editor of Scholarship Commons. For more information, please contact [Susie Lee](#).

AFFORDABLE HOUSING: CAN NIMBYISM BE TRANSFORMED INTO OKIMBYISM?*

PETER W. SALSICH, JR. **

I. INTRODUCTION

As the record setting expansion of the United States economy moves into the new millennium, there is overwhelming evidence, which confirms that millions of American families have serious difficulty obtaining both decent and affordable housing. This is particularly true for families whose income is below the national median income of approximately \$48,000.¹ These reports

* I am indebted to Mark Buchbinder, Esq., of Miami, Florida for the terms OKIMBYism, which means "O.K. In My Backyard."

** McDonnell Professor of Justice, Saint Louis University School of Law. This essay was written while the author was the David L. Straus Distinguished Visitor at Pepperdine University School of Law during the Spring 2000 semester. Special thanks are extended to John Bruegger, 3L, and Jeremy Johnson, 2L, Saint Louis University School of Law for their valuable research assistance, and to the Dean, faculty, staff, and students at Pepperdine University School of Law for their assistance and hospitality.

1. See, e.g., Mary Williams Walsh, *Boom Times a Bad Time for Poorest, Study Finds*, LOS ANGELES TIMES, Jan. 19, 2000, at A1 (Federal Reserve study reports that net worth of lower income persons fell during 1995-1998 period; a separate study by the Economic Policy Institute and the Center on Budget and Policy Priorities claims the income gap between the top fifth and the bottom fifth widened); NATIONAL LOW INCOME HOUSING COALITION, *Out of Reach: The Gap Between Housing Costs and Income of Poor People in the United States*, available at <http://www.nlihc.org.oor99> (1999) (millions of working families continue to have difficulty obtaining affordable rental housing); Winston Pitcoff, *Millions of Working Americans Still Lack Affordable Housing*, 21 SHELTERFORCE 24 (1999); Department of Housing and Urban Development, *The Widening Gap: New Findings on Housing Affordability in America*, available at <http://www.huduser.org/publications/affhsg/gap.html> (Census Bureau's American Housing Survey reveals that 8.87 million rental households—25 percent of all renter households—have incomes at or below 30 percent of area median income, but only 36 percent of that total are residing in or have access to affordable rental housing) [hereinafter HUD, *The Widening Gap*]; *Study Asserts Homelessness On Rise Among Working Poor, Lack of Housing Cited as Cause*, 27 HOUS. & DEV. RPTR 266, (1999); *Booming Economy Has Aggravated Low-Income Housing Crisis, According to New HUD Report*, 26 HOUS. & DEV. RPTR 727 (1999) (number of persons and time spent on waiting lists for assisted housing have increased); *Strong Economy Fails to Help Homeless, Says Mayors' Survey*, 26 HOUS. & DEV. RPTR 519 (1998) (predicting an increase in homelessness despite the strong economy).

are particularly troublesome. They continue a theme that has been repeated so often as to become monotonous since homelessness returned to the national consciousness in the early to mid 1980s.²

While money, or its lack thereof, is a major factor in both actual and threatened homelessness,³ the attitude of persons blessed with affordable housing and their political representatives is an increasingly important factor. The economics of housing keeps single family home ownership out of the reach of most families in the lower quartile of the median income range, \$24,000 and below, and makes its increasingly difficult for those in the next quartile, \$25-48,000.⁴ Affordable housing for that segment of the population likely will be something other than the traditional detached, single-family house. In addition, housing for lower income families and those with special

The national median family income in 1999 was \$47,800. *Fiscal 1999 Median Income Figures Released by HUD*, 26 HOUS. & DEV. RPTR 630 (1999). Thirty percent of that figure is \$14,340, appropriately \$4000 more than the annual earnings of a person working full time at the current minimum wage of \$5.20/hour.

2. The report accompanying Resolution No. 111, adopted by the House of Delegates of the American Bar Association in 1995 stated in part:

For example, by 1980 the average African-American who resided in one of the ten largest metropolitan areas lived in a neighborhood that was 80% African-American. See DOUGLAS MASSEY & NANCY DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* 161 (1993) Robert Lake, *THE NEW SUBURBANITES: RACE & HOUSING IN THE SUBURBS* 239 (1981) (noting that suburbanization of African-Americans is marked by increasing racial segregation); Phillip Clay, *The Process of Black Suburbanization*, 14 URB. AFF. O. 405, 416-19 (1979) (describing the persistence in suburban communities of a racially segmented housing market).

As early as 1970, the poverty rate for African-Americans living in Chicago was 20% while the rate for their Euro-American counterparts was 5%; in Los Angeles, the rates were 22% for African-Americans and 9% for Euro-Americans; and in New York, the rates were 21% for African-Americans and 9% for Euro-Americans. MASSEY & DENTON, *AMERICAN APARTHEID*, *supra*, at 119 (observing that discrimination restricts the residential mobility of African-Americans and thus undermines their social and economic well-being).

Id. at 179 (“No matter what their personal traits or characteristics, people who grow up and live in environments of concentrated poverty and social isolation are more likely to become teenage mothers, drop out of school, achieve only low levels of education, and earn lower adult incomes.”).

(On file with author).

3. In analyzing housing affordability, HUD labels families with incomes at or below 30 percent of area median as “struggling.” HUD, *The Widening Gap*, *supra* note 1, at 2.

4. *Fiscal 1999 Median Income*, *supra* note 1. See also Daryl Strickland, *Housing Prices Close Out '99 on High Note*, LOS ANGELES TIMES, Jan. 18, 2000, at C1, reporting that median home prices in the Los Angeles area range from \$188,000 in Los Angeles County to \$240,000 in Orange County. With a 3:1 ratio of cost to income rule of thumb, median priced homes in Los Angeles require incomes of \$60–\$80,000 to be affordable.

needs increasingly is combined with social services. These services can be delivered more efficiently in multifamily or group home settings.⁵

But the popularity of single family zoning and the infamous dicta of the Supreme Court in *Euclid v. Ambler Realty Co.*⁶ that apartments are “parasites,” have prompted owners of single family homes and their local government representatives to strongly resist efforts to locate multifamily forms of affordable housing in residential neighborhoods. These efforts have been so widespread that two new terms have entered the English language: *NIMBYism* (“not in my back yard”), describing the opposition of current residents to incursions of “different” people or activities into a neighborhood,⁷ and *exclusionary zoning*, describing a popular technique to protect people afflicted with NIMBYism.⁸

This essay will review the NIMBY syndrome as it applies to affordable housing developments, particularly efforts to prevent homelessness by

5. See, e.g., Michael Allen, *Making Room at the Inn: Civil Rights and Inclusive Siting Practices*, 8 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 115 (1999); Anna L. Georgiou, *Nimby's Legacy – A Challenge to Local Autonomy: Regulating the Siting of Group Homes in New York*, 26 FORDHAM URB. L.J. 209 (January 1999).

6. 272 U.S. 365, 394 (1926) (“... [v]ery often the apartment house is a mere parasite. . .”).

7. See, e.g., Peter Hall, *The Turbulent Eighth Decade: Challenges to American City Planning*, 55 J. AM. PLANNING ASS'N 275, 281 (1989) (“Hand in hand with these trends, inevitably, goes the multiplication of special interest groups devoted to maintaining and enhancing the quality of environment, but also to stopping further development – the arrival of NIMBYism as the populist political philosophy of the 1980’s.”). See also Michael Heiman, *From ‘Not in My Backyard!’ to ‘Not in Anybody’s Backyard!’ Grassroots Challenge to Hazardous Waste Facility Siting*, 56 J. AM. PLANNING ASS'N 359-62 (1990); Michael Dear, *Understanding and Overcoming the NIMBY Syndrome: Not-In-My Backyard*, 58 J. AM. PLANNING ASS'N 288-300 (1992); Michael J. Dear & Lois M. Takahashi, *The Changing Dynamics of Community Opposition to Human Service Facilities*, 63 J. AM. PLANNING ASS'N 79 (1997).

8. Courts have struggled to balance the interests of local residents and persons who would like to move into single-family neighborhoods. The most famous litigation is the *Mount Laurel* trio of cases decided by the New Jersey Supreme Court. *Southern Burlington County NAACP v. Township of Mt. Laurel*, 336 A.2d 713 (N.J. 1975) (*Mount Laurel I*) (exclusionary zoning violates the state constitutional due process and equal protection guarantees, and developing communities must provide reasonable opportunities for their “fair share” of affordable housing); *Southern Burlington County NAACP v. Township of Mt. Laurel*, 456 A.2d 390 (1983) (*Mount Laurel II*) (reaffirming the principle of inclusion rather than exclusion of “least cost” housing, extending the fair share obligations to all municipalities, and authorizing a range of techniques under the rubric of *builders’ remedy*, including density bonuses and mandatory set asides); and *Hills Dev. Co. v. Township of Bernards*, 510 A.2d 621 (N.J. 1986) (*Mount Laurel III*) (upholding New Jersey’s Fair Housing Act, N.J. STAT. ANN. §§ 52.27D-301 et seq., establishing the state Council on Affordable Housing (COAH) to administer the *Mount Laurel* Doctrine). Twenty-seven years after the *Mount Laurel* case began, construction commenced in the fall of 1998 on a 140-unit rental development in Mount Laurel, despite angry protests from 200 or so prospective neighbors. DAVID CALLIES ET AL., *LAND USE* 485 (3d ed. 1999) (citing Smothers, *Affluent Suburb Approves Building of Homes for Poor*, NEW YORK TIMES, Apr. 12, 1997, at 6).

increasing the supply of housing that is affordable to the lowest income levels in our society. This type of housing may take the form of public housing or Section 8 apartments, group homes for persons with disabilities, housing cooperatives, and single-family homes rented by persons or families who also receive extensive social services. Traditional land use regulations impose considerable barriers to these forms of housing because of the general policy favoring owner-occupied, single family, detached houses on relatively large lots. This policy effectively excludes efforts to increase the supply of affordable housing for persons in danger of homelessness from large areas of our residential communities.

The frame of reference for this essay is a 1995 resolution of the American Bar Association's House of Delegates sponsored by the ABA Commission on Homelessness and Poverty⁹ that commits the ABA to a collaborative effort with state and local bar associations to encourage greater integration of affordable housing and related services in residential neighborhoods, and to develop non-adversarial techniques for resolving disputes between affordable housing providers or occupants and their neighbors.¹⁰

9. The Commission was created by the ABA in 1991 as an expansion of its Representations of the Homeless Project established in 1988 by the ABA Section of Individual Rights and Responsibilities. The Commission has presented policy recommendations to the ABA House of Delegates on a regular basis, including those on such issues as the need for due process in evictions of public housing residents suspected of drug-related activity (co-sponsored with the Standing Committee on Legal Aid and Indigent Defendants and the Section of Criminal Justice) (August 1990), on the need for increased federal housing for the poor (co-sponsored with the Commission on Legal Problems of the Elderly and the Commission on Mental and Physical Disability Law (August 1992), and on the responsibility of financial institutions to make affirmative efforts in their credit practices—particularly home mortgage loans among low-income and minority borrowers (co-sponsored with the Section of Business Law) (February 1991). The Commission has developed a library of resources in the area of housing, including video and written material on the development of low-income housing and on the federal Community Reinvestment Act, and a resource guide to bar association and law school homeless programs. The 1995 directory features 69 pro bono homeless programs in 28 states and the District of Columbia. ABA COMMISSION ON HOMELESSNESS & POVERTY, GUIDE TO HOMELESS PROGRAMS (1995). The guide highlights the outstanding work of many programs and illustrates how lawyers can ameliorate the plight of homeless individuals and families.

10. This resolution, No. 111, was adopted by the House of Delegates on August 8, 1995 at the ABA Annual Meeting in Chicago. The author was Chair of the Commission and principal drafter of the report and resolution. The Recommendation provided:

BE IT RESOLVED, that the American Bar Association supports the adoption of creative and comprehensive measures to address homelessness by eliminating illegal residential segregation, increasing the availability of affordable transitional and permanent housing and improving the accessibility of such housing to employment, schools, transportation, and human services. Such efforts should include:

- (a) stronger enforcement of existing laws designed to eradicate discrimination in housing based on race, color, gender, disability or the presence of children in the family;
- (b) affirmative plans to increase and preserve the supply of adequate affordable

Housing advocates and community leaders have collaborated in a number of communities to overcome barriers to such housing while still retaining the family-oriented status of their land use policies. This article will examine some of those efforts, in particular the Montgomery County inclusionary zoning ordinance, the Santa Fe Community Housing Trust, the California mandatory planning statute, and the consensus building suggestions arising out of the dialogue between the Building Better Communities Network and the National League of Cities.

This article concludes with the recommendation that collaborative efforts be undertaken in all communities to seek common ground among the often warring groups of affordable housing advocates, providers and consumers, and local government officials, businesses and residents. The dispute resolution technique of active listening should play a major role in this effort. With it, people of good will may be able to understand and alleviate the fears that drive much of the rhetoric on both sides. Once that is accomplished, techniques such as the Montgomery County inclusionary zoning ordinance, the California mandatory planning legislation, and the Santa Fe Community Housing Trust can spread to other localities.

II. RESPONDING TO NIMBYISM

The “Not in My Backyard”(NIMBY) term has become a popular shorthand description of public reaction to a variety of land uses deemed beneficial or necessary by the community at large, but unpopular to land owners and occupants in the immediate vicinity of the proposed use.¹¹ It is associated with another term, “locally unwanted land uses”(LULUs), which describes the kinds

housing for low and moderate-income families;

(c) regional initiatives to provide affordable housing that are accessible to employment and schools, transportation, and human services;

(d) programs to integrate communities by race and income to the greatest extent possible;

(e) provision of incentives and rewards such as incentive zoning and density bonuses to private builders and operators to encourage the planning and development of affordable housing in integrated communities;

(f) enactment of state and local laws (i) giving development proposals that comply with the standards of an approved affordable housing plan a presumption in favor of approval, (ii) creating special appeals processes to resolve disputes regarding affordable housing development proposals, including the use of mediation and conciliation services, and (iii) requiring regulatory agencies to establish that any denial of approval to such an application is based on health or safety factors that override the need for affordable housing.

(On file with author).

11. Dear & Takahashi, *supra* note 7, at 79.

of uses (group homes, soup kitchens, garbage dumps, waste treatment plants) that typically trigger the NIMBY reaction.¹²

The Commission on Homelessness and Poverty's publication, *Not in My Backyard: A Guide to Lawyers Working With Group Homes, Shelters, and Soup Kitchens*,¹³ uses a story about a *Big Orange Splot*¹⁴ as a metaphor for the NIMBY syndrome.

The Big Orange Splot is symbolic of what occurs in the "not in my backyard" ("NIMBY") situation. Mr. Plumbeam's neighbors perceived that their street was "neat" and did not want to change it. Neighbors perceive what they think their neighborhoods are all about and what they should be. They don't like change to their neighborhoods if it means, in their minds, an adverse impact. They don't want buildings to come into their neighborhoods if they perceive it will reduce the value of their residential properties. They don't want group dwellers to come into their neighborhoods if they perceive it will increase the amount of garbage, trash, ruckus, and noise in the neighborhood; or if it will cause their neighborhoods to be less safe. Or if they perceive the people moving into the neighborhoods not be a "family," as they define it. Or, if they perceive the people coming into the neighborhoods not to be "like them."

Yet, *The Big Orange Splot* is not only symbolic of what occurs in the NIMBY situation, but is also an example of how we can address a NIMBY situation. Neighbors' perceptions can be changed, as long as they become convinced that change is better—as in *The Big Orange Splot*, Mr. Plumbeam convinced them that each of their houses should be different on their street so that their house looked "like all their dreams."¹⁵

NIMBYism, directed against programs providing housing and social services for low income families and persons with special needs, manifests a clash between two very powerful social forces: the desire for personal privacy expressed through the legal power to exclude and protected by the public land use regulatory technique of zoning on one hand, and the desire to experience the stability and peaceful environment of residential neighborhoods by persons with special needs as an alternative to institutional settings.¹⁶

12. *Id.*; see also Michael B. Gerrard, *The Victims of Nimby*, 21 FORDHAM URB. L.J. 495 (1994).

13. Commission on Homelessness and Poverty: ABA Steering Committee on Unmet Legal Needs of Children and Commission on Homelessness and Poverty, *Nimby: A Primer For Lawyers and Advocates* (1999) [hereinafter Commission on Homelessness and Poverty].

14. See generally DANIEL MANUS PINKWATER, *THE BIG ORANGE SPLIT* (1977).

15. Commission on Homelessness and Poverty, *supra* note 13, at ix-x.

16. For a discussion of these conflicting interests, see Peter W. Salsich, Jr., *Group Homes, Shelters and Congregate Housing: Deinstitutionalization and the NIMBY Syndrome*, 21 REAL PROP. PROB. & TRUST J. 413 (1986).

One example of efforts to respond to NIMBY problems encountered by affordable housing providers is the Building Better Communities Network (BBCN),¹⁷ which was organized after a three-day conference in Washington, D.C. during November 1998. The conference was sponsored by an interfaith collaboration in Washington, D.C., the Campaign for New Community (CNC).

The Conference brought together several hundred people from a wide diversity of interests: housing advocates, legal aid and public interest lawyers, group home directors, supportive services providers, state and local legislators, planners, and program administrators, recipients of housing and social services programs, and representatives of community and residential neighborhood organizations. At the close of the conference, more than 100 persons signed a resolution to create the BBCN. A twenty-three-person Advisory Board was selected, which adopted a statement of Principles and Actions Agenda for BBCN. The statement provides in part:

The *Building Better Communities Network* was founded on the belief that welcoming communities are better communities, and that there are broad social benefits of diverse, collaborating communities that transcend the benefits to specific classes or individuals. The Network supports the expansion of housing and human services for all people and advocates for inclusive communities where civil rights are protected, diversity is celebrated, neighbors and community institutions collaborate for mutual support, and all members of the community are involved in planning for matters, which affect their quality of life. We recognize the potential for conflicts and pledge ourselves to create the opportunity for a discussion in which all parties can be heard.¹⁸

The Network is guided by the basic principle that “sound communities are characterized by the opportunity for all people to live together and have equal

17. The NIMBY syndrome includes a wide variety of concerns, as illustrated by an email sent to the BBCN network by a group homes provider in suburban Chicago. See Appendix A (e-mail copy on file with author).

18. In order to bring focus to the benefits of inclusive community for all, the Network offers a unique and concerted program of dialogue, advocacy, technical assistance and training in support of civil renewal and improving the quality of life of all. The Network supports the growth and stability of inclusive communities by working with all stakeholders, including residents and users of services, neighbors, housing and service providers, advocates and elected officials, and supports their efforts to promote healthier communities. Unlike many other organizations focused on creating housing or providing legal or financial assistance, the Network focuses exclusively on deepening the bonds of community and helping neighbors and community institutions collaborate and respond to the housing and service needs of people who are poor, homeless or who have disabilities.

Building Better Communities Network, *Statement of Principles and Action Agenda* (April 19, 1999) [hereinafter BBCN Draft Statement]; see also Jean Duff, *Building Better Communities: A National Dialogue on Collaborating for Successful Siting of Housing and Social Programs* (1998). BBCN's website is at <http://www.bettercommunities.org>.

access to housing and services.”¹⁹ This means that each person has a “responsibility to work with others to make our own neighborhoods inclusive,”²⁰ and the freedom “to choose a home and a neighborhood” without encountering discrimination in the availability of housing or human services.²¹ Governments are instruments of the people, and as such “must cease to discriminate and affirmatively undo the effects of past discrimination and segregation.”²²

The Network condemns NIMBYism as “contrary to the universal principle of the worth of each person, and threaten[ing] to the social unity essential to harmony and progress.” Inclusive communities are “built and sustained through collaboration of all community institutions” in responding to “neighbors in need.” Such collaboration among communities within a region “benefits the entire region, and ensures that each community takes an active part in responding to regional housing and service needs.”²³

One of the most interesting and hopeful developments with BBCN is the growing consensus that basic assumptions should be reexamined in an effort “to move to a more productive discussion” with all stakeholders as an alternative to the “pitched battles over siting.”²⁴ For example, Michael Allen, Senior Staff Attorney at the Bazelon Center for Mental Health Law in Washington, D.C., raised the possibility at the conference and in later e-mail correspondence that the congregate model of housing for persons with disabilities, including the group home which has caused so many siting controversies, is not the best way to provide housing and services for persons with disabilities. Congregate housing often costs more than independent housing offered through “tenant-based” assistance. Congregate housing also segregates its residents from their neighbors, while diminishing the “personal freedom and privacy” of the residents, he argued. He called for a greater effort to find “workable alternatives.” Such an effort may lead to a discovery of approaches that are “cheaper, more respectful of residents’ dignity, and that, because they require no public participation, would not raise all the community opposition we see to larger congregate settings,” he asserted.²⁵

19. BBCN Draft Statement, *supra* note 18.

20. *Id.*

21. *Id.*

22. *Id.*

23. *Id.*

24. Email from Michael Allen, Senior Staff Attorney, Bazelon Center for Mental Health Law in Washington, D.C., to the BBCN Network (Dec. 4, 1998) (on file with author).

25. *Id.*

III. MOVING TOWARD INCLUSION: THE MONTGOMERY COUNTY, MARYLAND APPROACH

“Urban sprawl” is another term that has entered the American consciousness in the last few years.²⁶ It connotes an end-of-century version of the fabled land rushes of the 19th Century. In reality, it is the extreme manifestation of what scholars have termed the “socioeconomic sector, or wedge” pattern of growth in American metropolitan areas. According to this theory, three distinct neighborhoods, working class, middle class, and upper class, “grow in pie-shaped wedges into the expanding city.”²⁷ These patterns have become noticeable in the St. Louis metropolitan area, as well as many other metropolitan areas.²⁸ For example, a working class wedge has moved out of north St. Louis along I-70 and into the suburban communities in north St. Louis County; a middle class wedge has gone generally south along I-55 into unincorporated areas of south St. Louis County; while an upper class wedge can be seen moving out through I-44 and I-64 (Highway 40) into west St. Louis County and St. Charles County.²⁹

As a resident of Glendale in southwest St. Louis County and an employee of Saint Louis University, I don’t often have the opportunity to visit St. Charles County except to pass through it on trips to Jefferson City, Columbia or Kansas City, Missouri.³⁰ I do know about the growth of St. Charles County, primarily from newspaper, radio, and television accounts. In November 1999, however, I spent an afternoon in St. Charles County and was stunned by both the enormity and quality of the growth-taking place. The vitality and energy that I observed from a drive down Mid Rivers Mall Drive from I-70 to Highway 94 and then to Highway 40 was truly impressive.

My reason for being there was to take part in a panel discussion at St. Charles County Community College concerning growth and affordable

26. See generally F. KAID BENEFIELD, MATTHEW D. RAIMI & DONALD D.T. CHEN, *ONCE THERE WERE GREENFIELDS: HOW URBAN SPRAWL IS UNDERMINING AMERICA’S ENVIRONMENT, ECONOMY, AND SOCIAL FABRIC* (1999); Clint Bolick, *Subverting the American Dream: Government Dictated “Smart Growth” is Unwise and Unconstitutional*, 148 U. PA. L. Rev. 859 (2000). Examples of public debate over sprawl are found in Steve Schmidt, *Brawl Over Sprawl*, SAN DIEGO UNION TRIBUNE, Feb. 29, 2000, at A1; Lyn Riddle, *South Carolina Confronts Sprawl*, NEW YORK TIMES, Dec. 26, 1999, at 42Y; Ken Lieser & Ingrid Perez, *Study Criticizes Unchecked Suburban Growth*, ST. LOUIS POST DISPATCH, Oct. 3, 1999, at E3; J. Philip Bloomer, *Sprawl vs. Space*, THE NEWS-GAZETTE (Champaign-Urbana, IL), May 2, 1999, at A-1.

27. MYRON ORFIELD, *ST. LOUIS METROPOLITICS: A REGIONAL AGENDA FOR COMMUNITY AND STABILITY* 19 (1999).

28. *Id.* at 5 n.11 (reporting that studies have been completed or are in processes in 22 other metropolitan areas).

29. *Id.*

30. An earlier version of the St. Charles County discussion appeared as an OP-Ed piece. See Peter W. Salsich, Jr., *Counties Could Require Developers to Include Affordable Housing*, ST. LOUIS POST-DISPATCH, Dec. 3, 1999, at C21.

housing. The program was sponsored by the Community Council of St. Charles County as part of the “Vision St. Charles Leadership Program.” Other speakers included the county planning director, the mayor of the city of St. Charles, and two legislators, one from the city and the one from county.

The inspiration for the particular discussion was a recent controversy concerning the re-zoning of land in a mobile home park, which necessitated the relocation of its residents. The controversy dramatized the issue of affordable housing in a growth environment. Speakers appeared in general agreement that one of the lessons to be learned from such a controversy is that the foreseeable impact of a particular zoning decision should be considered carefully before the decision is made.

What to do about affordable housing has become a regular topic of discussion in suburban as well as urban and rural America. One of the strongest arguments against urban sprawl, made by this writer as well as many others, is that lower income people are left in the inner cities and suburbs, far from the new jobs being created by the growth, because little or no attention is given to providing affordable housing as a component of that growth.

It doesn’t necessarily have to be that way. St. Charles County and other areas experiencing substantial growth, can take a pro-active approach to affordable housing. Montgomery County, Maryland offers a good example of the possibilities. Twenty-five years ago, Montgomery County enacted its Moderately Priced Development Unit (MPDU) ordinance.³¹ The 1974 ordinance made a series of findings similar to the current situation in St. Charles County: rapid increase in population, inadequate supply of moderately priced housing, large-scale commuting to places of employment, high land costs, strong private development sector.³²

Based on these finding, the Montgomery County MPDU ordinance requires that all subdivisions of 50 or more dwelling units must include a minimum number (between 12.5 and 15%) of moderately priced units of varying sizes to accommodate different family sizes.³³ Developers are allowed to increase the number of dwelling units to be constructed on a particular site by up to 22% over the allowable zoning density in return for including MPDUs in the development.³⁴ Single-family MPDUs must have two or more bedrooms and multi-family MPDUs must not be predominately efficiency or one-bedroom units.³⁵

The ordinance is implemented through written agreements, called MPDU agreements, approved by the Director of the County Department of Housing

31. MONTGOMERY CTY, MD., CODE § 25A (Housing, moderately priced).

32. *Id.* at § 25A-1.

33. *Id.* at §§ 25A-2(5) and 25A-5(b)(3).

34. *Id.* at § 25A-5(b)(3).

35. *Id.* at § 25A-5(a)(2) & (3).

and Community Affairs.³⁶ County officials may not issue building permits unless applicable MPDU agreements have been signed,³⁷ and covenants “running with the land for the entire period of control” that are senior to all permanent financing instruments have been recorded.³⁸

The MPDU ordinance provides some alternative approaches for developers “in exceptional cases.”³⁹ In lieu of the standard MPDU approach, developers may offer to: 1) build “significantly more” MPDUs at one or more adjoining sites within the same or adjoining planning area; 2) convey land suitable “in size, location and physical condition for significantly more MPDUs”; 3) contribute to the County Housing Initiative Fund monies to “produce significantly more” MPDUs; or 4) any combination of the above.⁴⁰ An offer to follow one of the alternative approaches must be accepted if the Director finds (1) that the original proposal included an “indivisible package of resident services and facilities” for all households that would make the MPDU units “effectively unaffordable,” (2) the alternative proposal by the developer “will achieve significantly more” affordable MPDUs, and (3) the public benefits of the alternative proposal “outweigh the benefits of constructing MPDUs in each subdivision throughout the county.”⁴¹ However, the contribution of land or cash alternatives may not be approved if the developer “can feasibly build significantly more MPDUs at another site.”⁴²

The land transfer provision may be implemented by transferring land to the County. The agreement may be for either 1) finished lots, with the developer being reimbursed for the costs of finishing the lots but not for the cost of acquisition or value of the transferred lots, or 2) unfinished lots or finished lots with the developer waiving reimbursement when no County funds are available.⁴³

In June 1999, a Montgomery County attorney who practices in this area reported at a conference I attended that more than 10,000 MPDUs have been constructed in scattered sites throughout the county over the 25-year period since the ordinance first was enacted. These units are designed to be affordable to families whose incomes are between 65 and 85 percent of the county median income. Approximately 1500 of these units have been purchased by the county’s Housing Opportunities Commission for rent to persons who are eligible for public housing or section 8 subsidies. Rents and sale prices of MPDUs are regulated by the county, with a portion of any profits

36. *Id.* at § 25A-5(a).

37. *Id.* at § 25A-5(h).

38. *Id.* at § 25A-5(k).

39. *Id.* at § 25A-5(e)(1).

40. *Id.* at § 25A-5(e)(1)(A)-(D).

41. *Id.* at § 25A-5(e)(2).

42. *Id.* at § 25A-5(e)(2)(C).

43. *Id.* at § 25A-5(f)(1).

on resale being required to be shared with the county for additional housing. Current sale prices for MPDUs are in the mid-\$90,000 range. Over the years, a cottage industry has grown up to build MPDUs under contracts with traditional developers. Most of the MPDUs are townhouses. Some are duplexes dropped within a single-family development and designed to look like single-family homes, the attorney stated.⁴⁴

The 1974 ordinance was a product of a coalition of service workers-fire fighters, police officers, teachers, government workers and the like, the attorney stated. The coalition had to overcome the opposition of bankers, brokers and builders, as well as a veto by the county executive. Because of the success of the Montgomery County program, the state legislature about five years ago specifically authorized all Maryland counties to enact such ordinances. The attorney stated that he was not aware of any other Maryland county creating an MPDU ordinance, and he worried that the current political climate might make such a proposal questionable even in Montgomery County.

The Montgomery County MPDU program is cited frequently as an example of what courageous and imaginative people can accomplish. Could such a coalition be put together today to achieve a similar result in other growth areas around the country?

IV. MANDATORY PLANNING FOR AFFORDABLE HOUSING: THE CALIFORNIA EXPERIENCE

Some states have responded to the increasing concern about affordable housing and homelessness by enacting legislation requiring local governments to engage in formal land use planning as a prerequisite to exercising the zoning power delegated to them by the state.⁴⁵ Such legislation typically requires communities to analyze their housing situation and determine whether or not there is an unfilled demand for affordable housing in that community.⁴⁶

Affordable housing in this context is housing that is affordable by the range of income levels within the community, particularly persons and families of low and moderate income.⁴⁷ Affordable housing may or may not require governmental subsidies. The essence of the affordable housing concept in a land use context is that the community's land use regulations should not impose artificial barriers to the development of housing affordable to a wide range of economic levels.

44. Remarks of Kenneth B. Techler, Esq. at ABA Forum on Affordable Housing and Community Development Law Annual Meeting, Washington, D.C., June 4, 1999.

45. See *CALLIES ET AL.*, *supra* note 8, at 485.

46. See, e.g., CAL. GOV'T. CODE § 65583.

47. See, e.g., CAL. HEALTH AND SAFETY CODE § 50093 (low and moderate income means income that does not exceed 120 percent of area median income).

California is an example of a state that has adopted such laws. Section 65589.5 of the California Government Code requires local governments to approve affordable housing development proposals unless the government makes one of six specified findings. In order to disapprove a housing development project that is affordable to low and moderate income households, or condition approval in the manner which renders the project infeasible for low and moderate income households, the local government must first find, based on “substantial evidence,” one of the following:

- (1) the development is not needed to meet the fair share obligation of the jurisdiction;
- (2) the project would have “specific adverse impact” on public health and safety and there is “no feasible method to satisfactorily mitigate or avoid the specific adverse impact;”
- (3) denial or imposition of conditions was required in order to comply with specific state or federal laws and there is no feasible method to comply with these laws without making the development unaffordable to low and moderate income households;
- (4) approval of the development project would increase the concentration of lower income households in a neighborhood that already has a disproportionately high number of low income households and there is no feasible method of approving the development at a different site without rendering the development unaffordable to low and moderate income households;
- (5) the development project is proposed on land zoned for agriculture or resource preservation which is surrounded by at least two sides by land being used for agricultural or resource preservation or which does not have adequate water or waste water facilities to serve the project; or
- (6) the development project is consistent with the jurisdiction’s general land use designation as specified on the date the application was deemed complete and the jurisdiction has adopted a housing element in accordance with the statute.⁴⁸

The California statute defines affordable housing as housing that is “affordable to low and moderate income households which means that ‘at least 20 per cent of the total units shall be sold or rented to lower income households and the remaining units shall be sold or rented to either low income households or persons and families of moderate income as these terms are defined in sections 50079.5 and 50093 of the California Health and Safety Code.’”⁴⁹

48. CAL. GOV’T CODE § 65589.5(d) (1-6).

49. *Id.* at § 65589(h).

Local governments denying approval or imposing restrictions on qualified affordable housing developments have the burden of proof to show that their decisions are consistent with required findings described above in any court challenge. If a proposed housing development project complies with the applicable general plan and zoning and development policies in effect at the time that the project's application was complete, but a municipality seeks to disapprove the project or to reduce the density the municipality must make written findings supported by substantial evidence in the record that both of the following conditions exist: (1) the housing development project would have "specific adverse impact upon the public health and safety" (2) and there is no feasible method to "satisfactorily mitigate or avoid the adverse impact other than disapproval of the development project."⁵⁰

Section 65584(a) of the California Government Code requires communities as part of their mandatory housing planning to identify the housing needs of the community, including people who might be expected to reside there and to identify land and provide assistance to developers. Section 65915 authorizes density bonuses but does not require land to be set aside for affordable housing.

Advocates have generally been disappointed that the law has not been implemented as vigorously as they would believe necessary. In fact wide spread noncompliance has been reported.⁵¹ Court challenges have not been particularly effective.⁵² Advocates submit the statutory language permitting findings that a development may have adverse health or safety impacts or may result in over concentration of low-income housing is "legally amorphous."⁵³

Advocates report, however, that the statutes have been useful in providing a frame of reference for successful settlement of disputes over the location of affordable housing developments. One of the reasons for this is that the local officials usually understand that there is a need for affordable housing within their jurisdiction and may not be totally opposed to a particular development for that reason. The statute offers a frame of reference and an incentive for analyzing what might be appropriate modifications to respond to project-specific problems that may well be legitimate concerns of opposing voices. In some situations the statute may give political cover to local government officials who can pass off the responsibility for the particular decisions to

50. *Id.* § 65589(i)(j).

51. Ben Field, *Why Our Fair Share Housing Laws Fail*, 34 SANTA CLARA L. REV. 35, 44 (1993).

52. *See, e.g., City Defeats Housing Element Challenge in State Court of Appeal*, MALIBU SURFSIDE NEWS, Jan. 20, 2000, at 3 (reporting on unsuccessful challenge to city of Malibu's housing elements). *But see Hoffmaster v. City of San Diego*, 55 Cal. App. 4th 1098, 64 Cal. Rptr. 2d 684 (1997) (city did not substantially comply with legislative mandate to identify sites). *See* Field, *supra* note 51, at 54-61 (discussing court reluctance to use enforcement powers).

53. Richard Judd, *California's Response to NIMBY*, 17 NIMBY REPORT 2 (1999).

“distant” state officials. In essence, local governments’ hands are tied and they simply have to follow the law.

Most importantly, the statutes read together reverse the presumption of validity for decisions regarding the location of affordable housing developments. Under the classic zoning analysis accepted by the court in *Euclid*⁵⁴ and followed in large part since then, most zoning decisions are presumed to be valid and the person who is challenging such a the decision has a heavy burden of overcoming that presumption. The burden is heavy because it is essentially a burden to demonstrate that decision simply could not have been made by rational people.⁵⁵ The California statute reverses that presumption with its requirement that affordable housing development proposals be approved unless the local government shows one of the six specific concerns.⁵⁶

It may take awhile, but over time the shift in that legal presumption can have profound impact on how communities respond to affordable housing development proposals. For example, a Massachusetts statute enacted in 1969 that shifts the legislative presumption regarding affordable housing developments, created a state Housing Appeals Committee, and requires local governments to justify land use decisions rejecting qualified affordable housing proposals⁵⁷ has been credited with development of over 20,000 units of subsidized housing and with a change in environment that resulted in a 137% increase in the subsidized housing supply over a 30 year period.⁵⁸ The program started slowly, though. Legal challenges lasted four years, followed by ten years in which a positive track record was built painstakingly on a project-by-project, city-by-city basis. Most of the production occurred after this favorable track record of decisions by the Housing Appeals Committee was established.⁵⁹

AFFORDABLE HOUSING ENDOWMENTS

An interesting proposal for financing affordable housing through private “endowments” is offered by an attorney in Irvine, California.⁶⁰ The endowments are essentially transfer fees collected when market rate housing is sold and then resold. Under this proposal, private restrictive covenants and

54. *Euclid*, 272 U.S. at 365.

55. *Id.* at 388 (“If the validity of the legislative classification for zoning purposes be fairly debatable, the legislative judgment must be allowed to . . . control.”).

56. See Judd, *supra* note 53.

57. MASS. GEN. LAWS CH. 40b.

58. Citizens’ Housing and Planning Ass’n, *Using Chapter 40B to Create Affordable Housing in Suburban and Rural Communities of Massachusetts* 15 (Oct. 1999).

59. *Id.* at 8-10.

60. F. Scott Jackson, *Affordable Housing Endowments*, 18 AM. COLLEGE OF REAL ESTATE LAWYERS NEWSLETTER 15 (Dec. 1999).

servitudes would be used to provide the funding mechanism. Prior to the sale of a new home, the homebuilder would subject the property to a private covenant and to a lien, which would operate similar to a mortgage. The covenant or servitude would impose a financial obligation secured by a lien on the property requiring an endowment fee to be paid to a designated beneficiary. Beneficiaries would be private not-for-profit organizations. The California proposal calls for a foundation to receive the payments and then distribute the fees on a pro rata basis to other not-for-profit housing providers such as Habitat for Humanity.⁶¹ California has a statutory limitation on “ancient mortgages” of sixty years so the lien would be for that particular term. Current experience in California suggests that ten to twelve transfers would take place during that sixty-year period. Each time the home is sold a transfer fee would be collected. The proposal suggests one-quarter of one percent for which the buyer and seller would be jointly liable.⁶²

The author of the proposal does not believe that this endowment proposal would affect the marketability of the land. In fact he believes that the marketability of the fee itself is a major aspect of its potential success. So long as the housing market is “reasonably strong” the fee is “likely to be discounted entirely,” particularly if it is at a low percentage of the gross sales base. He offers as evidence a community enhancement transfer fee imposed at Ladera Ranch in Orange County, California. A fee of 1/8 of 1% on new home sales and 1/4 of 1% on resale is paid to a not-for-profit corporation that uses the funds to “enhance community relations and social activities in Ladera Ranch.” In addition, he cites the Bridges in Rancho Santa Fe in San Diego County as another example. This “exclusive custom lot development” charges purchasers a transfer fee of 1/2 of 1% of the sale price. At Bridges, the beneficiary is the master developer. The author states that the transfer fee does not appear to have adversely affected sales. He argues that the potential revenue from such a fee is significant. For example, in a 100-lot subdivision of homes selling at an average price of \$400,000, a 1/2 of 1% endowment fee would generate \$200,000 from initial sales. Assuming resale every five years, the affordable housing foundation could realize annually \$40,000 a year for sixty years or \$2.4 million total.⁶³

V. THE SANTA FE COMMUNITY HOUSING TRUST

An increasingly common by-product of job growth is scarcity of affordable housing. For example, Silicon Valley added seven jobs for every new housing unit between 1995 and 1999. Urban Planners advocate a ratio of 1.5 jobs per

61. *Id.*

62. *Id.*

63. *Id.*

home to keep the supply and effective demand in line.⁶⁴ Sometimes the high cost of housing is a function of popularity for reasons other than jobs, such as retirement. Santa Fe, New Mexico has experienced such pressures and has responded with an affordable housing strategy based on the community land trust concept.⁶⁵ Community land trusts (CLTs) are not for profit organizations, usually organized as tax-exempt corporations dedicated to use of land for community-based purposes such as preservation of open space, small farm agriculture or affordable housing.⁶⁶ The CLT acquires title to land and executes long term ground leases to developers and managers of affordable housing, which often includes housing cooperatives.

The Santa Fe Community Housing Trust (SFCHT), established in 1992 as a program of The Santa Fe Affordable Housing Roundtable,⁶⁷ used the land trust concept to make available for purchase by low income families thirty new homes in an eighty-eight home development near the city center. Through the land trust mechanism, the acquisition costs of the homes were reduced by \$35,000.⁶⁸ The land trust purchasers acquired title to their homes and a leasehold interest in a 99-year ground lease. In addition, they signed contracts giving SFCHT a right of first refusal to buy the homes at fair market value before the owners can sell to other persons.⁶⁹ The separation of ownership of the land from ownership of the house, and the right of first refusal are key elements of the land trust technique. In effect, land is withdrawn from the competitive land market and is retained for a particular purpose, in Santa Fe for affordable housing.

64. William Fulton & Paul Shigley, *Death Valley*, 66 PLANNING 4, 4-5, 7 (July 2000).

65. *Santa Fe Nonprofit Uses Land Trust to Build Single Family Housing*, 27 HOUS. & DEV. RPTR. 312 (1999) [hereinafter *Santa Fe NonProfit*].

66. A major advocate of CLTs and provider of technical support is the Institute for Community Economics, 57 School Street, Springfield, MA 01105-1331. Among its publications are COMMUNITY LAND TRUST, ICE MODEL GROUND LEASE (1991); THE COMMUNITY LAND TRUST: AN INNOVATIVE MODEL FOR NON-PROFIT AFFORDABLE HOUSING DEVELOPMENT (1990); THE COMMUNITY LAND TRUST MODEL: QUESTIONS AND ANSWERS (1989). For discussion of the potential of CLTs for affordable housing, see David M. Abromowitz, *Community Land Trusts and Ground Leases*, 1 J. OF AFF. HOUS. & COMM. DEV. L 5 (1992); Stacey Janeda Pastel, *Community Land Trusts: A Promise in Alternative for Affordable Housing*, 6 J. LAND USE & ENVTL. L 293 (1991).

67. For a brief discussion of SFCHT's early activities, see Peter W. Salsich, Jr. *Thinking Regionally About Affordable Housing and Neighborhood Development*, 28 STETSON LAW R. 577-584, 585 (1999).

68. *Santa Fe NonProfit*, *supra* note 65.

69. *Id.*

VI. COMBINING INCLUSIONARY ZONING MANDATORY PLANNING AND NEIGHBORHOOD COLLABORATE PLANNING

One of the major proposals to come out of the Building Better Communities Conference is a strong recommendation that local governments “integrate affordable housing into their plans for the development of their cities.” Included in that recommendation is the proposal that neighborhood planning be recognized by ordinance as a “legitimate municipal function” and that the neighborhood be adopted as the “basic area for needs assessment, provision and improvement.”⁷⁰ The planning decisions would thereafter be separated into decisions that have “limited impact on the community as a whole being delegated to neighborhood groups or at least be based on advice received from neighborhood groups primarily affected.” On the other hand, planning decisions affecting the entire community “should not be overly influenced by a single neighborhood’s needs or interests.”⁷¹

Recognition of the neighborhood-planning component is a crucial step to effective implementation of inclusionary zoning programs such as the Montgomery County program, mandatory planning such as the California program and the community land trust technique such as used in Santa Fe. All of these programs assume that there is some entity capable of making the appropriate decisions about the proper location of affordable housing. These programs also assume that an important aspect of affordable housing location decisions is the spread of affordable housing throughout the planning area so that a range of choices for housing will be available in all parts of the community and that housing for low income families or persons with special needs will not be unduly concentrated in limited areas. To achieve these goals, the residents of the communities must feel that they have a stake in the planning process.

Many of the siting disputes over affordable housing involve what might be viewed as “external” impacts of affordable housing developments. The question of who should make the decision about the significance of “external impacts” is often a very difficult one to answer. A serious gap in the decision making process in many communities is the lack of a mechanism for including the concerns of the immediate community. For example, redevelopment of the site of the successful Santa Fe community land trust development had been blocked for ten years by neighborhood opposition to an industrial development proposal. SFCLT overcame the built-in distrust engendered by that conflict by neighborhood meetings, city council hearings and focus group discussions.⁷² Neighborhood planning can provide a missing link to enable the immediate community to express itself in an orderly fashion on this issue.

70. BBCN Draft Statement, *supra* note 18, at 51.

71. *Id.*

72. *Santa Fe NonProfit*, *supra* note 65.

The process of making siting decisions to maximize the inclusionary rather than exclusionary aspect of those decisions requires an ability to include all points of view in the deliberative process and an ability to resolve disputes through an informal nonadversarial process.

VII. CONCLUSION

Affordable housing has become a controversial topic in an increasing number of communities, both because of the increasing difficulty that lower income families are having in affording affordable housing and the difficulty that communities are having in deciding where affordable housing development projects ought to be located. Local decision makers and housing advocates have had difficulty agreeing on how best to approach the location question. In part, this difficulty stems from intense competition for use of scarce land in popular urban and suburban areas. In part, this difficulty also stems from fears engendered from spectacular failures of high-rise public housing projects built in the 1940s and 1950s. In essence affordable housing, in many communities, triggers an immediate NIMBY response. The irony of this is that virtually all Americans likely would agree with the proposition that affordable housing should be OKIMBY (“Okay in my backyard”) if that housing contributed value to the neighborhood and made it possible for stable families and individuals to live in the neighborhood.

This paper has discussed three techniques in use in various parts of the country for responding to affordable housing concerns. The three techniques, inclusionary zoning ordinances, state mandatory planning legislation, and the community land trust technique have a common denominator: all require effective communication among stakeholders to be successful. Neighborhood planning techniques can foster that communication. Communities that have recognized this are reporting success in resolving disagreements over the type and location of affordable housing. Communities that fail to recognize this are likely going to continue to experience acrimony and controversy over affordable housing proposals. Change is difficult and affordable housing requires change in traditional land use patterns. The change can be for the good particularly if affected parties are given an opportunity to consider the change in an open and non-threatening environment. After all we may be the ones who need that affordable housing sometime in the future.

APPENDIX A

A list of the 35 questions asked of [an] agency by members of the community who supposedly had 250 names on a petition of NIMBY for a [home it] wanted to establish.

1. What is the total number of group homes in our community? Already there are two in our immediate neighborhood, . . . Can you confirm this?
2. Are any of the existing group homes in our community for recovering drug and alcohol abusers? Is this a first?
3. To my knowledge, this would be the third social project in our immediate area . . . How many such projects are [in other areas]?
4. Can we expect more such homes to come to our neighborhood or will they be equally distributed throughout our community?
5. When this project was first contemplated . . . why were the projected neighbors not openly approached and the subject mutually discussed?
6. Group homes in the future, should notify neighborhood residents. Will this happen?
7. What does our community gain by participating in the Federal Community Block Grant Program?
8. Where will the residents of this home come from - our community, elsewhere?
9. Will this home accept patients with a past record of abusive behavior toward their family, neighbors or co-workers?
10. Will this home accept patients with past criminal records?
11. [Do you] have other such homes in our community or is this a first?
12. Are there other such programs in the U.S. or is this a first?
13. Is there a possibility that as the result drugs may come into our neighborhood?
14. What happens when a person fails in their rehabilitation?
15. What is the maximum number of people that under the auspices of the project could live at the home of our community any time? It is our understanding that the number is eight, with a responsible person in charge, making a total of nine persons. What do the zoning laws of our community specify.
16. Will at any time all of the recovering patients be gainfully employed? Full time- part time?

17. Will all of the recovering patients have the right to have a car and, if so, will they be able to use it any time that they might wish?
18. Could we obtain a ban on personal cars for the residents similar to the other healthcare groups?
19. Will they be allowed to receive visitors any time that they might wish? Any restrictions- number, time of day, days of the week, sleep over, etc.?
20. Will the patients and their visitors be allowed to park their vehicles in front of the residents? We believe that this would be hazardous to the children. Ample off-street parking would be a much safer arrangement.
21. [Have you] signed any kind of an agreement with our community about the upkeep of the property? If so, what criteria will be used to monitor this? (This property is bound to undergo a tremendous amount of wear and tear)
22. Where (to whom -a name) do neighbors turn if they perceive problems?
23. Could [you] provide references (name, addresses and telephone numbers) of citizens living in close proximity to other . . . residences in the . . . area?
24. Was it necessary to authorize exceptions to the existing zoning laws to accommodate the high-density residence in an otherwise single family residential neighborhood?
25. Will the residents be supervised 24 hours a day, 7 days a week?
26. [Have you] had any problems anywhere with their wards in the past? If so, what were they? Please be specific!
27. How long [have you] been in existence?
28. Has our community made a study of how this project will impact traffic patterns in the area, parking, safety in the streets, etc? If so, may we have a copy of it?
29. Has our community made a study of the impact of such residences on the community? If so, could we have the report?
30. Are these people apt to harass their neighbors or will they pretty much keep to themselves? In one instance that has been reported to me, these people tend to spend a great deal of time wandering the streets.
31. Could we get the address of all current and past . . . locations?
32. What percentage of [your] patients is HIV positive? What precautions do we need to take?
33. Surely you have a set of written regulations for their residents. Could we have a copy of it?

34. Could our community arrange a town meeting with [your] representatives where all of our questions would be answered?
35. [The lane] is a dark street. Could additional lighting be installed?