COUNTY OF LOS ANGELES
DEPARTMENT OF MENTAL HEALTH

A GUIDE TO
SUCCESSFUL SITING STRATEGIES

Ensuring Delivery of Mental Health Services
and Supportive Housing in
Community Settings

PREFACE

Building political and community acceptance for mental health facilities is a significant challenge in Los Angeles County. When it comes to siting mental health facilities, a sophisticated advocacy campaign combined with knowledge of land use and housing codes and regulations are critical in overcoming potential resistance from neighbors and reluctant public officials.

Successful Siting Strategies was prepared by the Mental Health Services Act (MHSA) Successful Siting Strategies Workgroup of the County of Los Angeles -- Department of Mental Health (DMH) in collaboration with Government and Community Affairs (GCA) Strategies, one of the nation's top public affairs firms in the area of land use public relations and overcoming community opposition to siting controversial projects.

This manual offers a strategic approach and technical tools to communicate with public officials, to manage community opposition, and to mobilize advocates in support of mental health proposals. Guidelines on internal communication with Los Angeles County agencies are also provided, along with more detailed resources on advocacy, zoning, and legal rights associated with siting mental health services and supportive housing programs. Additional resources on winning political and community support for controversial land use projects can be found at www.gcastrategies.com and www.csh.org.

SUCCESSFUL SITING STRATEGIES

**Ensuring Delivery of Mental Health Services
and Supportive Housing in
Community Settings**

TABLE OF CONTENTS

INTRODUCTION

The County of Los Angeles -- Department of Mental Health (DMH) staff members are very knowledgeable about what they do best – helping persons with mental illness. Their skill set, however, does not necessarily include in-depth training in land use terminology, community outreach, political advocacy, or fending off an angry public at an open community meeting, all skills which are frequently needed when siting a new mental health facility in the community. This document, *Successful Siting Strategies: Ensuring the Delivery of Mental Health Services and Supportive Housing in Community Settings*, is intended to provide a background in the dynamics one faces when working with community and elected officials, suggest useful strategies to avoid or minimize potentially difficult situations, and recommend resources in preparing to open a new mental health site.

There are difficult decisions to make along the way to siting a new facility. You need to know as much as possible about the site you have selected and the surrounding community before you develop a strategy for having your plan accepted. Do you attempt to fly under the radar knowing that legally you have a court-enforceable right to open a facility on a particular site? Then, if challenged, are you prepared to go to court, spend a king's ransom and, if successful, operate in an unfriendly environment, hoping your neighbors will eventually come around to accepting your program? Or do you hold a large, public meeting to openly discuss your project, potentially inviting hostile remarks and providing a forum for your opponents to organize and unite? Or do you start by investing time, hope and money in small gatherings anticipating that the community will slowly be persuaded to support your project, only to face long and difficult negotiations that could compromise the program and even your legal status?

There are two critical places to begin when developing your siting plan: selecting the site and taking the initial steps to gain acceptance in the community and with local elected officials. Clearly, picking a site that meets all zoning code regulations and supports the General Plan avoids significant risk since it conforms to the stated desires of the community and deprives potential opponents of the grounds to contest your program. It also provides for a strong negotiating position or, as a last recourse, the basis on which to file a lawsuit. The intent of *Successful Siting Strategies* is, of course, to avoid even the consideration of legal action by helping you gain acceptance within the community before, during and after the project is implemented. Community approval becomes even more important if the site selected does not meet the zoning or land use requirements or if there is a segment of the community, or an elected official, determined to oppose the project under any circumstance.

Should all attempts to educate and de-stigmatize those with mental illness fail and the project faces determined opposition, choosing another site is always an option. However, if a legal remedy is sought, there are strong federal and state laws, and in some instances local laws, to support your actions. It is important to know these as well as the zoning regulations and land use ordinances in your area. Even if you decide not to litigate and attempt to compromise with your neighbors, basic knowledge of these laws will give you the ability to reach an agreement without diluting your legal standing. Section C, "Legal Protections and Land Use" provides a short compilation of relevant statutes, laws and regulations that govern the siting of mental health facilities and housing for people with disabilities as well as a summary of land use regulations and zoning.

The phenomenon of NIMBYism (Not in My Backyard) is not new, and DMH and its contract agencies have certainly been involved in a number of community and political challenges when seeking to open new facilities. But each program that is successful, and ultimately endorsed by its neighbors, becomes a showcase and helps pave the way for the next program and the next. The importance of building and maintaining relationships and providing excellent programs in well-kept facilities cannot be underestimated. Each success is a testament that these programs belong in the community and that persons with mental illness are entitled to the same rights and opportunities that all of us take for granted.

January 2009

SECTION A: DECISION - MAKER ADVOCACY

Winning political and community support for mental health programs and facilities starts with a clear identification of the decision-makers who will ultimately approve your project, those who influence decision-makers, and the broader group of citizens who form the "roots" of any grassroots campaign efforts.

Identify Key Decision-Makers

There are three different categories of participants involved with public decisions about mental health facilities:

Tier 1 Decision-Makers

Tier I Decision-Makers include County Supervisors, mayors, council members, planning commissioners, and city managers. These individuals are the ultimate targets of your lobbying activities. Tier 1 decision-makers need to be persuaded to adopt pro-project attitudes and take pro-project action since their formal support is needed for project success. To help persuade these key decision-makers, Tier 2 influencers and Tier 3 constituents will need to be identified, recruited and mobilized to help lock down their support.

Tier 2 Influencers

Tier 2 Influencers are respected community leaders and activists who shape the opinions of Tier 1 superiors, other community leaders, and subordinate constituents. Once you have the chair of the homeowners' association or the leader of local faith-based organizations on board, you can benefit from the individually-powerful support of these Tier 2 leaders and ask them to tap into their broader base of members, constituents and colleagues.

Tier 3 Constituents

Tier 3 Constituents include individual voters, property owners, and members of organizations led by Tier 2 influencers. These constituents are more typically focused on their personal interests than on broader group interests. Tier 3 constituents are the people who leave phone messages for their elected officials, sign letters to the editor, attend and testify at public hearings, and reassure Tier 1 decision-makers that they won't be punished on Election Day for approving a controversial mental health facility project.

Decision-Making Standards: Tier 1 Decision-Makers

When attempting to gain approval for any type of housing project or legislative measure, you must understand the standards that govern the Tier 1 decision-makers. Not all decisions are based solely on the local Planning Code or other land-use controls; decision-makers are often guided by standards related to political goals or their own personal ideas and values of what is right.

Statutory Standards

Land use projects should be evaluated on the basis of statutory standards spelled out in the community's General Plan and/or Planning Code. For example, a project requiring a conditional use permit must demonstrate that the proposed use is "necessary and desirable" and does not conflict with the broad standards outlined in the General Plan or the technical standards outlined in the Planning Code. If the project calls for constructing a roundabout traffic circle, demonstrate how this will adhere to the General Plan standard of maintaining consistent levels of traffic or promoting safer streets.

Policy Standards

Proposals for mental health facilities or programs are often governed by unwritten policies or political goals that actually determine which project gets approved. For example, there may be an unwritten policy that mental health facilities should be limited or barred from the downtown area. This can be addressed either by demonstrating that the project is in harmony with the surrounding area or emphasizing the project's statutory compliance.

Personal Standards

Many decision-makers inject their own personal beliefs into their decision-making process. Ideas such as "staff is always right" or thoughts of how their vote on a particular project will affect their chances of getting re-elected are examples of personal standards that dictate how a decision-maker votes. Being cognizant of the personal standards of decision-makers and the community is an important step in developing a respective lobbying plan and community relations strategy.

Impact of Public Opinion on Final Siting Decision:
Tier 2 Influencers and Tier 3 Constituents

Public opinion influences Tier 1 decision-makers in three ways.

Validation
Even when you have the votes lined up at City Hall, Tier 1 decision-makers may still require the visible and verbal support of citizens to help validate their decision and provide them political cover. Although these decision-makers may have a favorable attitude about siting facilities for mental health programs, the need for Tier 2 and Tier 3 citizen support is often necessary to justify the action of a "yes" vote.

In situations where the Tier 1 decision-makers need validation to support their vote for your project, the number (quantity) of supporters is often more important than the strength or influence (quality) of the supporters. A strong visual demonstration of public support at the hearing will encourage Tier 1 decision-makers, but a poor showing of public support could give the appearance of impropriety (i.e. the decision-makers are responding to special interest pressure instead of voter preferences or demands).

Influence/Persuasion
Public opinion is often necessary to persuade Tier 1 decision-makers to adopt pro-project attitudes. Start by compiling a list, grouping by Tiers, and including all relevant contact information. For example, a Tier 1 decision-maker could be the councilman for the district in which you wish to site a facility, a Tier 2 influencer may be the leader of an influential local faith-based organization or a Home Owners Association (HOA) president and a Tier 3 constituent may be the registered voting members of the local faith-based organization or HOA.

Tier 2 influencers such as the president of the Chamber of Commerce or respected religious leaders can encourage the decision-maker to understand the importance of siting your mental health facility in the community. In addition, Tier 2 influencers can provide reassurance to the decision-makers that the broader base of Tier 3 constituents that they represent will still support, like, and/or vote for the decision-maker even if they vote for the project. It may be that certain constituent groups such as faith-based organizations or local mental health advocacy groups will condition future support for the decision-maker specifically as a result of his/her vote to site the mental health facility in the community.

Direct Decision-Making Powers
Tier 3 constituents are the "grassroots" of grassroots organizing. These are voters and citizens who look to Tier 1 or Tier 2 leaders to guide their public

opinions. While an individual Tier 3 stakeholder may not be independently influential, Tier 3 constituents possess collective power to influence the opinions of elected officials through voter action including the ability to take over direct decision-making on projects via referendum, bond measures, or recall. For example, if a relatively small but active group of constituents like a neighborhood group are unhappy with a City Council decision, they may circulate a petition and qualify a referendum to reverse the decision or recall the offending official(s).

Guide to Meeting with Decision-Makers

Once the decision-makers have been identified, it is important to create a plan on how and when to approach these individuals. Outreach should ideally take the form of one-on-one or small group meetings.

One way to structure the meeting is to meet the Tier 1 decision-maker with a Tier 2 influencer who supports your project. In some cases, the Tier 2 influencer's relationship with the Tier 1 decision-maker may be your "in" to get a meeting in the first place. In addition, your credibility is immediately enhanced when you are associated with one of their respected constituents.

After a meeting has been set with the decision-maker, use the following steps on the next page as a guide for having a professional, productive meeting.

GUIDE TO MEETING WITH TIER I DECISION-MAKERS

Prepare Key Messages & Materials

- ❖ Set up and confirm the appointment
- ❖ Understand the personality of the office
- ❖ Involve important community figures
- ❖ Coordinate message with others in the group

Prepare yourself

- ❖ Dress appropriately
- ❖ Limit extra gear
- ❖ Plan what you are going to say
- ❖ Turn cell phones OFF

Arriving at the office

- ❖ Be early
- ❖ Be ready for anything
- ❖ Be polite and cooperative
- ❖ Start with a "thank you"

Things to avoid

- ❖ Being late
- ❖ Being disorganized
- ❖ Side conversations
- ❖ Anything that could be considered gossip
- ❖ Disruptions: coffee, water, extra chairs

During the visit

- ❖ Make sure everyone is introduced
- ❖ Make a personal connection
- ❖ Make messages bigger than you
- ❖ Keep the discussion orderly and concise
- ❖ Don't waste time on other things
- ❖ Make a specific request of the office

Follow up

- ❖ Send a written thank you
- ❖ Furnish additional materials you promised
- ❖ Showcase your organization by providing the office an opportunity to get involved in a local event such as a skill-building workshop
- ❖ Develop an on-going relationship

➢ **Refer to the <u>Resource Appendix - 1</u>** for additional information on identifying the different types of decision-makers.[1]

➢ **Refer to <u>Resource Appendix - 2</u>** for additional information on assessing decision-makers' personalities, communication styles, and political behavior. This section also describes how to create an individualized lobbying plan.

---

[1] The article was written with reference for a resort but the text has broad application to siting our programs.

SECTION B: COMMUNITY OUTREACH

Scope of Outreach

Participatory Outreach

Participatory outreach or process-oriented outreach focuses on creating a good process to achieve "win-win" consensus. Participatory outreach also includes community building as an independent goal above and beyond the primary goal to win project acceptance.

Participatory tools involve all stake holders and emphasize empathy and respect, long-term relationships, and compromise as a means to achieve consensus.

Some of the advantages of implementing a participatory outreach process include building public trust; creating a sense of citizen empowerment; increasing project acceptance; and receiving feedback that may help create a better project. Some of the disadvantages of a participatory outreach process include creating concessions with no guarantee of actual supporters and committing to the expenditure of significant time and resources.

Advocacy Outreach

While a "win-win" outcome is something to strive for, sometimes a simple "win" is the only viable option. Advocacy outreach or outcome-oriented outreach focuses on getting support to achieve a particular outcome. The emphasis is on building mental facilities, not changing public opinion about mental health. Advocacy outreach is best used to help win approval or support for a specific site but not for multiple projects in a particular community.

Low-Profile vs. High-Profile Outreach

A *low-profile* or "under the radar" outreach strategy keeps community contact at a minimum and often focuses on siting a facility "by right." Every project sponsor dreams of going "under the radar" to get entitlements simply by adhering to the General Plan requirements and local Planning Code, but keeping a low profile does not mean ignoring the community.

A plan for mobilizing support and addressing potential questions should be developed to respond to concerns raised by local officials and the community. Matter-of-fact entry into a neighborhood still requires the sponsor and operator to create a basis for a long-term, open relationship with the community.

The advantages of a low-profile outreach strategy include minimizing public scrutiny and criticism of the project, residents and clients of the mental health

facility; ensuring that people with mental illness are guaranteed the same rights to privacy and confidentiality that are to be expected in a free society; and avoiding NIMBY legal battles by working closely with local officials to ensure that the statutory requirements and Planning Code are adhered to.

The disadvantage of a low-profile outreach strategy is that when it fails, it fails spectacularly. Problems that could have reasonably been avoided with a modest, proactive outreach campaign are instead created by the failed low-profile approach itself. For example, by going under the radar, the community may view the sponsor/facility as "sneaking" into a neighborhood, thereby implying that the facility is doing something it couldn't get away with openly. This could also create an atmosphere of distrust and suspicion that will require effort to dispel and may result in a negative agency track record in siting future facilities in other communities.

A *high-profile* outreach strategy is based on collaboration with the community, often starting before any formal public hearings. The purpose of a high profile outreach strategy is to minimize opposition and build long-term acceptance of a project and sponsor by providing project information to the public and fostering community participation.

This type of strategy is necessary when a facility cannot be sited by right and the process requires community outreach. In this instance, it is critical for the sponsor to develop their own community outreach plan rather than letting the local agency dictate the parameters of public meetings and outreach. Different types of community outreach tools and meetings will be discussed in the following sections.

Some of the advantages of a high-profile community outreach strategy include building long-term acceptance of residents of the facility; building a solid track record of community outreach to reference for future siting endeavors; providing an opportunity to dispel negative public perceptions about mental health facilities before arguments become emotional; and it provides elected officials with the opportunity to look good in front of their constituents by requiring the project sponsor to engage the community in the approval process.

The primary disadvantage to implementing a high-profile community outreach strategy is that it requires a significant amount of research, planning, time, and human resources. This approach also does not address all forms of opposition. Opposition is discussed in detail in the following sections.

Overcoming Public Misperceptions

A significant amount of opposition to mental health facilities is caused by lack of information, misinformation, or exaggerated fears of project impacts. When opposition is caused by misperceptions, then clear and credible public information can help reduce citizen resistance to your proposal.

Types of Misperceptions
There are four types of misperceptions that typically underlay opposition based on lack of clear information.

- *The Sponsor*: "I heard that there was a big fight among the residents at one of your facilities last week."

- *The Project*: "Whaddaya mean the project is only 30 *feet* tall … I heard it was thirty *stories* tall!"

- *Project Impacts*: "The project will increase neighborhood traffic."

- *Misperceptions about Public Opinion*: "Only a handful of people in the community support this project."

On this last point: many people will oppose a project because they misperceive that "everyone else" opposes it. For example, Mrs. Jones privately supports the proposal for a mental health facility in her neighborhood but she doesn't hear anyone else speaking out in favor of the project. Mrs. Jones is fearful of her peers disapproving of her pro-project attitude and she doesn't want to be in the minority, so she represses her enthusiasm. She may be so averse to risk and conflict that she actually jumps on the opposition's bandwagon to avoid social rejection.

Now let's take this scenario to a public hearing. Mrs. Jones is repressing her enthusiasm for the project. Mr. Smith, who also privately supports the facility, is sitting next to her but doesn't hear Mrs. Jones speaking in favor of it so Mr. Smith suppresses his support for the same reasons as Mrs. Jones.

This phenomenon is known as the Spiral of Silence. Nationwide public opinion research indicates that among the top three causal reasons why people oppose real estate projects is because they don't think there is any support.

It is critical to let supporters know that there are others that share their pro-project attitude. This doesn't mean that the project sponsor must demonstrate that a majority supports the project, only that there are others who share their pro-project attitudes and will be there to back them up.

Using Public Information Tools

There are a number of public information tools that can be used to address misperceptions based on lack of information.

- *Unilateral Communication*: Project sponsors often rely on unilateral communication tools such as direct mail, advertising, press releases or web pages to get their messages across. These communication tools allow the project sponsor to send information in a one-way stream to neighbors without providing a mechanism for citizens to directly communicate back.

- *Bilateral Communication*: With bilateral communications such as one-on-one meetings or telephone calls, the project sponsor can create an intimate setting that allows them to receive information from the audience at the same time they are conveying their messages. If the meeting is successful, the sponsor can also get a commitment of support.

- *Invitational Group Meetings*: These are small events such as coffee-and-donut-get-togethers in neighbors' living rooms, or small lunches with a group of local merchants. Hard-core opponents aren't part of the invitation list, and invited participants get an opportunity to learn about the mental health facility concept in a personalized, interactive forum.

- *Multi-Party Meetings*: These include events such as huge community workshops or massive neighborhood association meetings and are a common form of outreach. Huge open-door forums are rarely effective informational events and should not be your sole outreach event. These events are typically non-invitational: every member of the public is welcome to attend (including opponents), and all who attend are equally empowered to participate. Unless carefully managed, these monster events can turn into outreach nightmares.

- *Open Houses*: When you need to reach out to dozens or even hundreds of citizens, consider more controlled events such as open houses stretching out over several hours or even several days, or breaking a large audience into facilitated roundtables. This allows the project sponsor to control the crowd and keep a cap on opposition that can erupt in large, open meetings.

  - ➢ **Refer to <u>Resource Appendix – 3</u>** for tips on holding an Open House.

- ***Organize a tour of a successful project***: These are useful when there are misconceptions about the impact the proposed project will have on the existing neighborhood.

  ➢ **Refer to Resource Appendix – 4** for tips on organizing an affordable housing tour.

Avoid Large Public Meetings!

- ❖ Too many people and not enough time.
- ❖ Anonymity of mob allows anti-social conduct.
- ❖ Promotes "groupthink" with opponents reinforcing hostile attacks on your project.
- ❖ Introduces opponents to one another to hear and adopt each other's agenda.
- ❖ Forum for activists to showcase the extremity of their anti-project positions.

Cautionary Note about Using Public Information

As valuable as public information can be, it is not the magic cure for all opposition; it can only solve opposition that is based on lack of information. Too much information can actually backfire and cause more harm than good. On its downside, public information can:

- Increase the visibility of the project itself, thereby increasing the potential for new opposition;
- Notify people of new issues of concern they weren't aware of or didn't really care about; and
- Validate vague fears about the project.

Moreover, public information is inherently condescending. When offering to "tell" neighbors about the project, one can come across as patronizing since there is a built-in presumption that you alone are entitled to make decisions that affect the community. No matter how good the intentions, you need to demonstrate that you wish to have discussion with the neighbors and get their thoughts on the project. Mention things like, "We want to hear from you," and "We'd like your feedback." This keeps the focus not on giving information, but rather on eliciting feedback on your proposal from the community.

Understanding Emotional Needs and Personal Conflicts

Unmet Emotional Needs

It is not true that all opposition would go away if only everyone had all the information about the project. Some citizens get involved in land use debates, for example, in order to feel important or to justify their leadership roles in the community.

Loss of Face and Respect: People get angry when they feel insulted, manipulated, talked down to, or made to look ridiculous. In a study on anger, 64 percent of angry people reported that they behaved aggressively in order to repair their damaged self-esteem or to enhance their social image. Interestingly, women are more likely than men to get angry when they feel condescended to or ignored.

While it is always important to treat citizens with respect, it is especially important to do so in volatile situations. Make good eye contact to show your personal respect for others. Pronounce names correctly. The best way to persuade someone to change their mind is to help find a face-saving reason for the flip-flop. For example, provide evidence that the proposal has changed since an activist announced her opposition to it; that the project team has changed; or provide new information that wasn't available when the first position was staked out.

- ***Eye contact*** is the Number One way that we can show respect to others.

- ***Using someone's personal name*** is also an important way to let others know that they are important. If you forget someone's name, don't be afraid to ask them again. This shows that you care about who they are and what they have to say.

- ***Active listening*** is a very important non-verbal communication tool that can be used to show respect. We can show that we are actively listening by sitting close, maintaining good eye contact, leaning forward and taking notes.

- ***Reflecting back*** is a non-judgmental, paraphrased statement of what you heard the other person say. Reflecting back allows you to demonstrate empathy by showing that you understand what the other person is saying and feeling. It is NOT a time to give an answer.

  When we reflect back on what the other person has said before giving a substantive response, we can avoid escalating angry feelings and hostility. The first example demonstrates a typical non-reflective response to a

neighbor's concern. The second example demonstrates how to reflect back to the person before giving a sensible response.

Example I: Non-reflective response

Concern: *"My neighborhood is going to be overrun with people coming in and out of your facility at all hours of the day and night!"*

Substantive (non-reflective) response: *"We will have strict hours of operation that will be enforced by an on on-site manager."*

This is not an effective way to respond to a neighbor's concern. When people are angry, they won't listen until you've demonstrated that you have heard what they said and that you understand their concern. We must first reflect back before giving a sensible response.

Example 2: Reflective response

Concern: *"My neighborhood is going to be overrun with people coming in and out of your facility at all hours of the day and night!"*

Reflect back by reporting what you've heard: *"If I hear you right, you are concerned about preserving the peace and quiet in your neighborhood."*

THEN give a sensible response: *"We have strict hours of operation that will be enforced by an on-site manager.*

Once you've reflected back, the other person is ready to listen to your sensible response. Reflection shows respect to the other person, demonstrates fairness to the audience, and reduces further hostility.

Meeting your opponents' emotional needs is usually the least expensive way to reduce opposition to your project. You may have to allow neighbors to vent their anger toward you. You may even have to overcome your own anger and resentment and show neighbors the

consideration they deserve. But generally, you don't have to make costly concessions to overcome opposition based on unmet emotional needs.

➢ **Refer to <u>Resource Appendix - 5</u>** for more information on non-verbal communication.

<u>Demonstrating Respect Summary</u>

❖ Eye Contact
❖ Using Someone's Personal Name
❖ Active Listening
❖ Reflecting Back

Moral Conflicts

Some people perceive land use debates as basic moral conflicts between good and evil. In the case of mental health facilities, there is a potential conflict between self interests and social needs. Opponents are typically strong individualists who wish to protect their self interests like their homes, their families, and their property values. There is often a misperception that a mental health facility threatens their life, liberty, and happiness.

Those who are proponents of mental health facilities often believe they have a social responsibility and a duty to help those who need it. They believe that the needs of society are greater than individual needs and those individuals therefore must make reasonable sacrifices to maintain the greater good.

If you share your opponents' moral principles, then say so. If your opponents have a different priority on a particular value, then explore with them those priorities in relationship to their other values. They may hold strong beliefs about individual rights, but how do those beliefs compare to other moral priorities such as compassion, fairness, and equity?

Even though you and your opponents may hold truly conflicting values, the clash does not have to result in deadlock. When land use conflicts appear to be caused by ethical disagreements, focusing on mutual interests and problems, rather than on conflicting values, can lead to resolution.

Conflicts of Interest

For some people, the term "conflicts of interest" raises specters of misused powers for the improper advancement of personal interests. This term, however, has a distinctly different meaning when neighbors are resisting the construction of a proposed mental health facility in their own backyards. When a controversial land use issue is at stake, the term "conflict of interests" refers to differing beliefs

about whether a proposed project will damage the status quo or bring about new benefits.

- ***Positive and negative interests:*** Land use proposals tend to put positive and negative interests into conflict. Citizens have a *negative* interest in avoiding damage to their existing lifestyles. People tend to live in a community because they like it the way it is, and they don't want more crowded schools, less open space, or lower property values. Most neighbors who object to the construction of a new drug treatment center or the expansion of a social science facility do so because they fear that change will make them worse off—or at least less well off—than they are right now.

  Citizens also have a *positive* interest in gaining new benefits they don't currently enjoy: they want less traffic, less crime, additional jobs, new tax revenues, and the public services these tax revenues can pay for. Most people who support a land use proposal do so because they hope the proposal will result in a better life for themselves and their families, or for other people or businesses in the community. People who endorse a mental health facility project gain the additional benefit of feeling good about helping others who need it.

  Too often, advocates for a project try to refute charges that a proposal will hurt the status quo by painting alluring pictures of how change will benefit the community. But when neighbors complain that "the mental health facility will create parking problems," regaling them with details about how many new jobs will be created by the facility is both irrelevant and insensitive.

  In this case, citizens want to hear how the mental health facility will be modified or the parking impacts mitigated to maintain the current availability of parking spaces in the area. Only in situations in which adverse impacts cannot be avoided or reduced to insignificant levels is it effective to argue that new benefits will make up for the harm done by the project.

- ***Citizens are much more likely to protect what they already have than to risk current benefits for vague future improvements.*** Indeed, people believe they should be paid a lot more money to tolerate change than the amount they would pay to avoid it.

  A study published in *Scientific American* concluded that the average utility customer would pay an annual fee of $13 per person to *avoid* having a nuclear power plant sited nearby. By comparison, however, the typical

citizen would be willing to *tolerate* the power plant as a nearby neighbor only if the utility compensated each ratepayer with a payment of $960 per year. The disparity between the high value of current benefits and the lower value of future benefits may suggest why it is so much easier for NIMBY neighbors to mobilize citizens to resist change to the status quo than it is for project proponents to turn out citizens to testify in favor of positive change in the community.

Citizens tend to be more interested in, and persuaded by, the promise of certain-but-smaller benefits than by the lure of larger but highly speculative benefits. Describing a smaller, certain impact ("This project *will* include a new stop sign") is more credible and effective than inflating the scale of an alleged benefit but acknowledging its risky nature ("The project *may* include a new stop sign, newly paved streets, and increased police presence").

It is obviously important to make future benefits as credible and certain as possible. Tools that can be used to make promises more credible include imposing enforceable covenants or conditions on the project sponsor as part of a permit, recording deed restrictions, and adopting Good Neighbor Agreements or legal memorandums of understanding.

Detailed renderings and architectural visualizations of the project are particularly helpful in demonstrating how the facility will be compatible with and therefore "fit into" the existing, attractive civic setting.

Resolving Conflicts

There are several tools available to help change people's minds and build support for your project

Persuasion
Persuasion is the process of getting people to accept to your beliefs and opinions on a particular issue. In short, it's about getting people to think what you think and want what you want.

There are three types of persuasion. Not everyone is receptive to the same type of persuasion so it is important to engage in all three types in order to address the individual needs of potential supporters:

- *Rational persuasion* is a logical presentation of facts, data, and expert opinion that lead to the rational determination that the assertions logically support your conclusions. "Therefore, the new stop sign will improve traffic flow and pedestrian safely in the neighborhood." Rational

persuasion is effective with people who like to think and have the time and the intellectual capacity to rationally evaluate the facts.

- *Emotional persuasion* is typically used by opponents to turn residents and decision-makers against you and your project. Tactics include personal attacks, peer pressure, guilt, and appeals to fear: "This mental health facility is going to expose our kids to dangerous people!" Emotional persuasion is particularly effective with those neighbors and decision-makers that do not have time to review all of the materials and information regarding your project.

- *Peripheral persuasion*: Many people respond to peripheral persuasion and base their decision about whether they believe and agree with you solely on the communication vehicle. "Everybody hates this so it must be a bad project." "She presented a lot of statistics, so she must be telling the truth." "All lawyers lie."

Negotiation

If you can't persuade people to adopt your project position, you need to engage in negotiation. When we negotiate, we retain our own viewpoint but agree to an outcome in order to serve our own needs, priorities, or goals. For example, Mrs. Jones does not agree that the mental health facility fits in with the community character of the neighborhood. However, she really wants a new stop sign at 1st and Main and a new children's tot lot. She will agree to accept the facility in order get the area improvements that she wants.

Project sponsors often engage in negotiations with neighbors to resolve conflict. Before going any further into the subject of negotiation, it is critical to note that making concessions is usually the most costly and least effective way to resolve conflict. Concessions can cost you millions and may not result in project support. There are four major types of bargaining.

- *Compromise:* If you are fighting about a single issue that can be easily divided (such as height or the number of units), then you can reach a middle-ground compromise on that one issue.

- *Exchange Concessions:* If many issues are in dispute, then you will probably want to exchange concessions by giving up something you don't care too much about so that you can gain a concession that means a lot to you.

- *Expanding the pie:* If the total pool of resources is too small to satisfy everyone, then you should consider expanding the pie to include city

officials and other parties outside the debate. Ask them to contribute goods or services towards the goal of making the neighbors happy.

- *Joint Decision-Making:* Opponents often believe that they should have decision-making powers equal to the project sponsor and that joint problem solving is appropriate. With joint problem solving, however, no development occurs at all unless both the sponsor and the neighbors are equally satisfied.

Good Neighbor Agreements

One tool to consider is a Good Neighbor Agreement (GNA). Good Neighbor Agreements memorialize negotiated agreements and are tools for building accountability and trust between communities and the sponsor and/or service agencies. They are voluntary agreements between a service provider and the neighborhood, designed to address a variety of community issues.

Good Neighbor Agreements

- ❖ Property maintenance and appearance
- ❖ Admission criteria
- ❖ Hours of operation
- ❖ Staffing levels
- ❖ Codes of conduct
- ❖ Community safety
- ❖ Communication
- ❖ Agreement monitoring and compliance

- ➤ **Refer to Resource Appendix - 6** for more information on developing GNAs and a sample Agreement.

Dealing with Hostile Audiences

So what if your efforts to deal with opposition and address individuals' emotional needs didn't work and people are feeling angry? Dealing with anger means more than just reacting when people start protesting; it means planning ahead to anticipate and avoid problems. Ask yourself: what is it about this project or situation that might trigger negative emotions like fear, frustration, or loss of face? Know the facts and explain the rules so citizens don't start feeling like they're being treated unfairly.

Just because citizens feel angry doesn't mean they have to behave in an aggressive manner. Think about what you're going to do once people start

losing their cool: you can firmly enforce the rules, allow angry people to vent, ask for more, agree in part, or even attack the use of attacks. With a strategic approach and some advance planning, you can help provide for civil discussion and debate on contentious matters.

Tips on Managing Hostile Groups:

The following tips are a guide to dealing with hostile audiences.

> **Do Not:**
>
> ❖ Respond emotionally
> ❖ Be defensive or argumentative
> ❖ Preach, lecture, or threaten
> ❖ Criticize
> ❖ Ridicule or shame
> ❖ Lose your cool

- *Set Ground Rules:* Before launching into a presentation about your project, take a few moments to set ground rules about how this portion of the meeting is going to run. Meeting rules typically describe the procedure and timing for audience questions or comments and include prohibitions on shouting, interruptions, profanity, or personal insults. It is crucial, however, to get the audience to "buy into" your rules: "Is there anyone here who doesn't understand these rules? Is there anyone here who doesn't agree to treat others respectfully?" Obtaining consensus on the ground rules makes it much easier to enforce them later when people start behaving badly.

- *Maintain Eye Contact:* Citizens are more likely to lash out at an impersonal, faceless enemy than to attack someone with whom they have established a relationship, so hostile opponents may try to avoid any interaction with you. You can significantly decrease the chances of being treated badly by an audience if you can force neighbors to engage in personal eye contact with you. While we naturally prefer making a lot of eye contact with happy people who reciprocate our friendly overtures, it is even more productive to compel unfriendly people to engage in personal interaction through mutual eye contact.

- *Eliminate Anonymity:* Citizens are more likely to engage in anti-social conduct when they think they are anonymous members of the crowd. You can minimize aggressive behavior by making it easier to identify individuals and hold them personally responsible for their anti-social

actions. Use name tags. Put out a sign-up sheet. Call on citizens by name. Have speakers identify themselves before each comment or question. You can further encourage people to see themselves as autonomous by using bright lights, mirrors, cameras, and rhetorical questions that enhance introspection.

- *Allow venting*: Rather than trying to bottle up angry feelings, it may be helpful to let an angry person let off steam. Encourage neighbors to fully express their emotions before you try to address their substantive concerns. You might even want to ask for more ("Can you give me some specific examples?"). Further complaints are then no longer part of an irrational attack but a rational and cooperative response to your request for more input.

- *Enforce the rules*: Remind an angry citizen that the audience collectively established ground rules at the beginning of the meeting, and that this type of negative behavior is not acceptable to the speaker's peers in the audience.

> **Tips for Hostile Audiences**
>
> ❖ Set the ground rules
> ❖ Maintain eye contact
> ❖ Eliminate anonymity
> ❖ Allow venting
> ❖ Enforce the rules

> ➤ **Refer to Resource Appendix – 7** for more details regarding managing an angry public.

Responding to Hostile Questions

Communication between project sponsors and residents often occurs in the form of question-and-answer sessions during community meetings. Too often, however, a productive Q-and-A session breaks down into a grilling by hostile participants. Here's how to handle antagonistic questions effectively.

- *Look Away From the Speaker*: Americans are taught that it is polite to look at the person who asked the question when giving an answer. In a group setting, however, the key to defusing a hostile question is to redirect attention away from the individual who asked it. When someone lobs an aggressive comment or question at you, immediately shift eye contact away from the speaker and address your comments to the rest of the audience. Treating every participant equally reduces the emotional

rewards to be gained by attention-seeking troublemakers and avoids reinforcing the impression that the toughest critic is a leader who deserves special deference. Don't look back again at the questioner during your answer and, unless you really want a follow-up question. Don't return to that individual at the end of your response to ask, "Does that answer your question?"

- **Restate the Question**: As you look away from the hostile questioner, restate the question. This transfers the spotlight away from the questioner, who will be more inclined to sit down quietly rather than continue standing while audience attention is focused on you. All members of the audience may not have heard the question, so your restatement helps enlighten those who may not have been listening carefully. Finally, restating the question give you a few extra moments in which to come up with a good answer.

  Never repeat an inflammatory question word for word. Instead, rephrase it in a more reasonable or less emotional way. When a critic snaps, "Why are you insisting on building this terrible mental health facility where no one wants it?" shift eye contact away from the questioner and rephrase the question: "The question is, 'How did we select this site for the new mental health facility?'"

- **Re-establish Eye Contact**: Although you don't want to maintain eye contact with the hostile questioner, it is crucial to make good eye contact with the rest of the audience. Good eye contact conveys interest in what listeners are thinking as well as your concern about whether your own comments are being understood. Moreover, speakers who make good eye contact are much more likely to come across as trustworthy, likeable, and persuasive than those who avoid eye contact.

  So what constitutes good eye contact? For starters, most people use only their right eye to look at another person; the left eye is used only for depth perception. Good eye contact involves using your right eye to look intently into the right eye of the other person. To test this theory, use your left eye to look into the left eye of another person. Awkward, isn't it?

  Select one person at a time to look at. Establish eye contact and hold that gaze until you shift eye contact to another audience member. If you cannot look at every person in the room, then at least make eye contact with every section of the audience: the front, the back, and both sides of the room.

Although people naturally prefer to look at friendly folks who are nodding and smiling, you can reduce hostility by making eye contact with persons with unfriendly expressions on their faces. Eye contact with unfriendly people makes it more difficult for them to view you as an impersonal enemy and can help reassure them that you really care what they think.

How long should each glance last? Average eye-to-eye contact lasts a bit more than one second. When one person is looking at another without reciprocal eye contact, the glance lasts about three seconds. Glances that last too long can send inadvertent messages of aggression or sexual attraction; gazes of longer than 10 seconds provoke extreme stress.

➢ **Refer to <u>Resource Appendix - 8</u>** for more details on dealing with hostile questions.

<div style="border:1px solid black; padding:10px;">

<u>Dealing With Hostile Questions</u>

❖ Look away from the speaker
❖ Restate the question
❖ Don't repeat the hostile question
❖ Establish individual eye contact with the group

</div>

Mobilizing Supporters and Managing Public Hearings

It often isn't enough to simply keep a cap on opposition. Public expressions of support are often required to turn a proposal for a mental health facility into an approved project. Where rules against *ex parte* contact with public officials prevent a sponsor from directly lobbying a politician for a vote, citizen-lobbyists are needed to persuade officials to adopt favorable opinions about the facility proposal. Even when public officials already have pro-mental health facility attitudes, pro-mental health facility attitudes don't necessarily guarantee pro-mental health facility action, so nervous politicians often need visible voter support before actually voting "yes" for a controversial mental health facility proposal.

Identifying Potential Supporters

The first step of any supporter development campaign is to identify who can be tapped for assistance:

- **Direct beneficiaries** are people who will make money on the project: the contractor, consultants, construction workers, and so on. While these

supporters do not make credible witnesses at the microphone, they can sign petitions, send letters of support, make phone calls, and so on.

- *Indirect beneficiaries* gain from general improvements in the local economy arising from the project. Local merchants, for example, can benefit from new pedestrian activity created by the new facility.

- *Project users* are another major audience of potential supporters. Whether it is potential clients, residents, or even family members of those who will seek assistance at the facility or wellness center, users can be credible witnesses.

- *People who have already made a public commitment* to help for those in need. Getting people to think about themselves in terms of their religious or charitable affiliations is more likely to result in a project endorsement than allowing citizens to think about themselves only as property owners likely to be impacted by a mental health facility development in their own backyards.

- *Special interest groups* either tend to generally support any kind of development or to support one particular component of the project. For example, a local mommies group may step up to advocate for a community facility that includes a secure children's play area.

- *People who will suffer relational consequences* if they don't step up and support the mental health facility proposal: friends or relatives of future clients; the project sponsor's employees or vendors; and others people whose continued personal relationship with a committed supporter tomorrow depends upon helping out today.

Creating Pro-Project Attitudes

Supporters of mental health facilities and more complex community development plans embrace several common values and attitudes. You can increase community support significantly by framing your arguments to respond to these beliefs. Below are some examples of positive statements that can be made on behalf of a mental health facility of supportive housing project.

Some Messages That Work

- ❖ We need mental health facilities in the "area."
- ❖ The facility is well designed and will be professionally maintained.
- ❖ Strong agency track record
- ❖ Residents and clients will be good neighbors
- ❖ Helping others help themselves
- ❖ Reliable commitments
- ❖ The facility will not increase crime in the area.

These headlines may be far too simplistic to be used verbatim in any outreach materials, so be sure to customize your advocacy campaign to meet the specific circumstances of your own community. Additional public opinion could also reveal effective messages and concessions unique to your proposal.

➢ **Refer to Resource Appendices – 9, 10 and 11** for additional messages specifically addressing siting a mental health facility or wellness center, a supportive housing project or mobilizing community support.

➢ **Refer to Resource Appendix – 12** for information on the impact of supportive housing on surrounding neighborhoods.

Recruiting Supporters

Within a mental health services context, a community member who signs a petition, fills out an endorsement card, or even attends a neighborhood coffee is substantially more likely to testify in favor of a project than someone who never makes an initial commitment. Before asking potential supporters to attend a public hearing or to make some other big pro-mental health facilities commitment, get your "foot in the door" with a much smaller request. Let's assume Mrs. Lee agrees to a minor, painless request such as signing a petition that says, "We need more mental health facilities in the community." When the project sponsor later asks Mrs. Lee to endorse a particular proposal in her own neighborhood, she will feel pressured to comply with the later request or else look shamefully inconsistent. Having once agreed to the initial request, Mrs. Lee will start seeing herself as a cooperative and civic-minded ally, and as someone who actually cares about mental health concerns and takes action to address them.

Endorsement cards are a very important recruiting tool because they allow you to escalate to a larger request, like attending a public hearing to support your project. They are also more persuasive than a petition; 500 pages of photo-

copied endorsement cards are visually more impressive than a few pieces of paper containing 500 signatures.

Mobilizing for the Public Hearing

The "Foot-in-the-Door" technique works to get an initial commitment of support for a proposed mental health facility project. When hearing time rolls around, however, it's time for the "Door-in-the-Face" approach.

This technique is initiated with a large request that may be rejected ("Will you come to a Planning Commission hearing on Tuesday afternoon and testify in support of the proposed mental health facility?"). If the large request is accepted, then you deserve to be congratulated. If your first request is refused, then retreat to the smaller request you had in your back pocket all along ("Then will you call the chair of the Planning Commission and let her know you support the project?"). Compared to the first request, the second request will seem much smaller, more reasonable, and easier to agree to.

Managing the Public Hearing

You can enhance the political impact of supporters at a public hearing by managing key factors such as supporter seating, the order of speakers, testimonial content, and supporter conduct during the hearing. Careful coordination of the hearing helps ensure that, when it comes time to vote on your project, decision-makers can appreciate the extent of community support for the land use proposal.

- *Find out the Rules:* First of all, you need to know how the commission, council, or board conducts its public hearings. Is it a "cattle call" where speakers line up in the aisles for their turn at the microphone? Are witnesses called up in the order in which they signed up? Does the chairperson alternate advocates and adversaries, or call witnesses in some other particular order? You can't take advantage of the rules if you don't know them, so talk with the appropriate staff person or the chairperson well before the hearing so you know what to expect.

- *Get the Good Seats:* The early bird may get the worm, but early-arriving witnesses get front row seats. Stake out good seats so decision-makers can see your allies and know that the audience supports you.

- *Space out Your Speakers:* If you can submit speaker cards or sign up your supporters before the public hearing begins, do it. But don't register all your supporters to speak consecutively; you'll want to reserve some allies for later in the hearing to allow an opportunity for rebuttal and to ensure that hostile messages are interspersed with positive messages about your project.

- *Put Your Best Speakers First*: You want your most compelling, golden-tongued speakers to testify early in the hearing so that later witnesses can be inspired and guided by their presentations. You also want persuasive witnesses to testify early so that reporters who must leave the hearing early to meet their deadlines can pick up quotable quotes from supporters, not opponents.

- *Provide Talking Points*: Citizen Advocates need to know what to say before they stand up to testify. Provide a one-page fact sheet or list of bulleted talking points so speakers can emphasize the messages you want decision-makers to focus on. If you have a lot of speakers, you can produce a variety of message sheets addressing different issues. Union leaders might be provided a fact sheet that focuses on new construction jobs, for example, while PTA members might be given talking points about new tax revenues that will help boost local schools.

- *Encourage Supporters to Look Supportive*: Project allies and team members can express their enthusiasm even when they are sitting still. Encourage pro-project attendees to smile and nod at appropriate moments. If there is an impressive crowd of supporters in the room, you can ask them to raise their hands or wear buttons to identify themselves as project advocates.

- *Maintain Contact With Supporters*: Hearings often last longer than expected, and supporters may try to slip out of the hearing room without testifying if they think they won't be noticed. So greet your supporters when they show up. Remind them that you are counting on them to remain for the entire hearing and to provide testimony. Maintain eye contact with waiting witnesses during the hearing and talk to them during breaks. If necessary, be prepared to intercept bolting witnesses at the door and press them to stay for just a few minutes longer.

- *Give 'Em a Break*: Public hearings often start late or drag on for hours, so make it easier for supporters to stick around City Hall for a long time, if necessary. Do you have an assistant on hand to feed quarters into parking meters to protect supporters' cars from tickets? Can you provide bottled water or snack packages for waiting witnesses? Bring crayons or soft soccer balls for parents who brought their kids with them? You want to make it as easy and as pleasant as possible for supporters to stick around as long as needed throughout the entire public hearing.

- *Read Testimony Into the Record*: Do you have a couple of important supporters who cannot attend the hearing? If so, their brief testimony can be read into the public record during the hearing. Ask the absentee to

recruit his or her own spokesperson, or ask an audience member who hasn't approached the microphone to read out the missing speaker's comments. If necessary, a team member of the development team can read the prepared statement on behalf of the absentee.

- *Try to Speak Last*: You want to be the last voice the decision-makers hear before they cast their votes. By speaking last, you can rebut attacks made by earlier speakers and ensure that your own key messages are fresh in the officials' minds when it comes time to make a decision. Ask for a brief rebuttal period. If necessary, reserve some of your originally allocated speaking time to provide a summary of your views after all citizens have testified. If you cannot secure rebuttal time for yourself, try to hold at least one persuasive supporter in reserve to speak at the end of the hearing to summarize your key messages.

- *Do Not Delay the Vote*: If you see that the decision-makers are ready to vote your way and getting impatient with too much boring, repetitive testimony, then do not irritate them with unnecessary additional testimony. Even if opponents continue to drone on with unpersuasive complaints, encourage supporters to waive their testimony in the interest of time so you can get to the vote as soon as possible.

- *Remember the Press*: You can increase the chance of getting pro-project messages into print by urging supporters to talk with the reporters who are covering the public hearing. Identify one or two community spokespersons ahead of time and provide reporters with their names and phone numbers. Encourage your allies to approach the press, introduce themselves, and explain why they support your project. If your supporters have submitted written comments or prepared written testimony for the hearing, they can provide copies to reporters. Remember that more quotes from supporters leave less room in an article for opponents' quotes!

➢ **Refer to <u>Resource Appendix - 13</u>** for a sample outreach brochure and endorsement card.

<div style="border:1px solid black; padding:10px;">

<u>Five Steps to Building Project Support</u>

- ❖ Identify potential supporters
- ❖ Create pro-project attitudes and messages
- ❖ Recruit supporters
- ❖ Mobilize support
- ❖ Manage the public hearing

</div>

SECTION C: LEGAL PROTECTIONS and LAND USE

Legal Protections

This section provides an overview of the key laws that apply to fair housing and siting of mental health facilities. It is summarized from *Between the Lines (Corporation of Supportive Housing)* which provides a much fuller explanation and which can be accessed from their website: www.csh.org/betweenthelines

These laws are complex, sometimes contradictory and may be subject to different interpretations. Prospective providers are encouraged to consult their government program representative, legal advocates and legal counsel for specific issues of concern and to receive proper legal opinion regarding any course of action.

Filing a lawsuit is never a quick proposition or a cheap one. Sometimes, however, it is effective in conveying a message that your group will not easily be deterred from pursuing your legal rights. A carefully timed legal complaint can result in a change in policy without having to go to court.

If you do decide to take legal action, you may have several options available that may include filing an administrative complaint or filing a federal or state lawsuit. In most cases, however, using the law to overcome community opposition is not advised because of the cost and time involved. Most developers choose to focus their energy and change the minds of their opponents rather than take on adversarial litigation.

Federal Laws Pertaining to Fair Housing

Equal Protection Clause of the14th amendment to the United States Constitution

- Prohibits the government from denying to any person "the equal protection of the laws."
- Applies to all "state action" which has been held in some situations to include actions by private parties receiving government assistance, including owners of housing receiving financial assistance from the government.

Fair Housing Act and Fair Housing Amendments Act

- Provides for "reasonable accommodation."

- Prohibits discrimination in the sale, rental financing or advertising of housing on the basis of race, color, religion, national origin, gender, familiar status, and handicap.
- Housing for seniors that meets certain criteria is exempt from the Act's prohibition of discrimination against families with children.
- Prohibits the use of zoning for discriminatory purposes and, in some cases, prohibits zoning actions that have a discriminatory effect.
- Requires local governments to grant reasonable accommodations to disabled persons, for example, by granting a variance that would allow a group home to locate in an area where the facility does not meet a zoning requirement.

Section 504 of the Rehabilitation Act of 1973

- Prohibits discrimination on the basis of disability in programs receiving federal funding.
- Some requirements are more rigorous than Fair Housing Act requirements such as in the area of reasonable modifications.

Americans with Disabilities Act (ADA)

- Title I of the ADA prohibits discrimination against individuals with a disability in connection with employment.
- Title II prohibits discrimination against individuals with a disability by state and local public entities in all government programs and services, whether or not they receive federal funding.
- Title III prohibits disability-based discrimination in commercial establishments and other public accommodations.
- Titles IV and V pertain to telecommunications and miscellaneous issues.
- ADA provides for "reasonable accommodation."
- *Note: The ADA has been applied to invalidate restrictive zoning provisions.*

California Laws Pertaining to Fair, Affordable and Supportive Housing

California Fair Employment and Housing Act (FEHA)

- Prohibits discrimination on the basis of race, color, religion, sex, national origin, gender, familial status, and disability (same as the federal Fair Housing Act) and also on the basis of marital status, ancestry, sexual orientation, and source of income.

- FEHA also prohibits both intentional discrimination and facially neutral policies that have a disparate adverse impact on a protected group (the federal Fair Housing Act is silent on this issue).

Unruh Civil Rights Act

- Prohibits discrimination in all "business establishments" (including housing accommodations) on the basis of sex, race, color, religion, ancestry, national origin, and disability. Also prohibits age discrimination and arbitrary discrimination which has been interpreted to include discrimination based on sexual orientation and other personal traits.
- Includes an exemption for senior housing meeting very specific requirements (Civil Code Sections 51.2 - 51.4). The Unruh Act senior housing exemption is more restrictive than the federal exemptions for senior housing and is not pre-empted by federal law.

The California Affordable Housing Law (Government Code Section § 65008(d))

- Prohibits any local government from imposing different requirements on a residential development or emergency shelter either because the development or shelter receives government assistance or based on the income levels of the expected occupants.

"Anti-NIMBY" Law

California Government Code Section § 65589.5 requires approval of housing development projects for very low, low, or moderate income households, and prohibits the imposition of approval conditions that make such projects infeasible, unless the disapproving local government can make one of six specific findings:

- The local government has a legally adequate and up-to-date housing element and the project is not needed to meet the jurisdiction's fair share of the regional need for lower or moderate housing;
- The project would have a specific, measurable adverse impact upon public health or safety, under objective written standards, that cannot be mitigated without rendering the project unaffordable;
- The denial of the project or the imposition of conditions is required in order to comply with state or federal law;
- The project would increase the concentration of very low income households in a neighborhood that already has a disproportionate number of housing developments reserved for such households, as compared to other predominantly very low income neighborhoods, and the project would be approved and feasible elsewhere in the jurisdiction;

- The project land is zoned for agriculture or does not have adequate water or wastewater facilities to serve the project;
- The project is inconsistent with both the jurisdiction's zoning ordinance and the land use designation in the jurisdiction's general plan as it existed when the application for the development was filed.

➢ **Refer to Resource Appendix – 14** for a brief summary of anti-NIMBY tools.

California State Pre-Emptions

Welfare and Institutions Code (W&IC) § 5120 – Facilities for Inpatient and Outpatient Psychiatric Care

Stipulates that health facilities for inpatient and outpatient psychiatric care and treatment shall be permitted in any area zoned for hospitals or nursing homes, or in areas in which hospitals and nursing homes are permitted by conditional use permit.

Welfare and Institutions Code § 5115 et. seq. – Homes for Six or Fewer Persons

Stipulates that a home licensed for 6 or fewer persons with mental disabilities can be located in any area zoned for residential use. (See also Health and Safety Code § 1566.3). This law prohibits requirements for conditional use permits, zoning variances or other special zoning clearances for these facilities that are not also required for a single-family residence in the same zone.

Note that the fair housing laws also require that homes with more than six people with disabilities living as a family be treated as any other family for purposes of zoning.

Required California Licenses for Residential Housing

California Real Estate Broker's License

A supportive housing organization needs to be licensed as a real estate broker before accepting compensation for property management activities at the project of another person, including a corporate affiliate (California Business and Profession Code Section § 10131(b)). Managing real property includes a broad range of tasks such as placing ads, showing units for rent, and collecting rent.

<u>California Community Care Facility (CCF) License (Health and Safety Code Section § 1500 *et seq.*; 22 CCR § 80005)</u>

- A CCF license is NOT NEEDED to provide supportive housing. State law exempts "permanent and supportive housing and independent living arrangements for persons with disabilities" from the licensure requirement (Health and Safety Code Section § 1504.5).

- A CCF license IS REQUIRED to operate transitional shelter care facilities, transitional housing placement facilities, residential facilities, adult day care facilities, adult day support facilities, therapeutic day services facilities, foster family homes, small family homes, social rehabilitation facilities, and community treatment facilities.

Land Use 101

California Planning and Zoning Law is the state statute that sets minimum standards for land use planning, zoning and land use approvals by the cities and counties. Cities and counties regulate land use by adopting their own general plan and zoning ordinance. While all development decisions must be consistent with these plans and ordinances, the local planning commission and/or the legislative body have the power to approve a "conditional use permit" or modify zoning requirements, such as through "variances", or the legislative body may grant a zone change or plan amendment. In practice, the application of these laws can vary among the different local jurisdictions in California.

California General Plan

Each local jurisdiction must have a general plan. Of the seven required "elements" of a general plan, the two most applicable to siting are the land use element and the housing element.

<u>Land Use Element of General Plan</u>

Sets forth the general land use permitted in different areas (e.g., commercial, industrial, open space, low-density residential, high density residential, etc.).

<u>Housing Element of General Plan</u>

- Each local jurisdiction's housing element <u>must</u> identify sites for all types of housing, including emergency shelters and transitional housing.

- SB 2, applicable to all housing element updates after January 1, 2008, strengthens state law by requiring all cities and counties ("localities") to provide at least one zoning category in which emergency shelters can be located without discretionary review by the local government. It also increases protections for providers seeking to open a new emergency shelter, transitional housing or supportive housing development by limiting the instances in which a locality can deny such a development if it is needed and otherwise consistent with the locality's zoning and development standards.

- Housing elements must also include, as part of providing housing to all segments of the population, programs that promote equal opportunities in housing (California Government Code Section § 65583).

Local Consolidated Plan

The Consolidated Plan, which describes a community's needs, resources, priorities and proposed activities, is required by HUD of all local jurisdictions that receive Community Development Block Grants (CDBG) and HOME funds. Since most local jurisdictions receive some form of HUD funding, it is helpful to explain the project to be sited in terms of furthering the goals of the local Consolidated Plan.

➢ **Refer to Resource Appendix – 15** for more information on strategies for working with a Consolidated Plan.

California Zoning Law

Zoning Regulations[2]

Each local jurisdiction adopts its own zoning ordinance to govern the use of land and buildings in matters such as:

- Height and size of structures;
- Percentage of a lot that can be occupied;
- Project density;
- Yard and setbacks;
- Location and permitted use of buildings and land.

Exceptions to the above can be made through a request for a variance, conditional use permit, or reasonable accommodation. Most requests for an accommodation to make housing available for individuals with disabilities are

---

[2] Zoning 101: http://www.csh.org

inappropriately subject to the variance or Conditional Use Permit (CUP) procedures. Both variances and CUPs require public hearings, which can have a discriminatory effect that can stigmatize future residents and arouse "Not-In-My-Back-Yard" sentiments; reasonable accommodation requests, however, are not open to the public.

➢ **Refer to <u>Resource Appendix – 16</u>** for more information on Zoning.

<u>Variances</u>

Variances are required in the United States in order to prevent a regulatory taking. A variance is an administrative exception to land use regulations, generally in order to compensate for a deficiency in a real property, which would prevent the property from complying with the zoning regulation. The circumstances in which a variance can be requested typically include the following:

- That the absence of zoning relief will present an exceptional difficulty or unusual hardship and without it the owner would not be able to make reasonable use of his or her property;
- That the hardship is not his or her own doing;
- That the hardship is peculiar to the property in question.

As an example, suppose a "low density residential" zone requires that a house has a setback (the distance from the edge of the property to the edge of the building) of no less than 100 feet (30 m). If a particular property were only 100 feet (30 m) deep, it would be impossible to build a house on the property, potentially resulting in an unlawful regulatory taking. A variance exempting the property from the setback regulation would allow a house to be built.

Three basic criteria are common to the vast majority of variance ordinances:
- The variance is required due to specific site conditions (topography, soil conditions, etc.);
- Granting the variance will not result in a hazard to public health or safety; and,
- Granting the variance will not result in a grant of special privilege to the property owner (in other words, any other property owner with similar site conditions could obtain a similar variance: this criterion is often addressed by citing precedent).

Conditional Use Permit (CUP)[3]

A CUP can provide flexibility within a zoning ordinance by allowing uses and activities in a zone in which it is not otherwise permitted, based on certain conditions imposed by the local jurisdiction. It is not a change of zone, but rather a project-specific change in the uses allowed on a specific property that does not involve the establishment of new codes, regulations, or policies. Instead, it applies the provisions of the zoning ordinance and its standards to the specific set of circumstances which characterize the proposed land use. The local jurisdiction must give public notice and conduct a public hearing before issuing or denying a CUP.

For example, in the City of Los Angeles, an application for a CUP is submitted to the Planning Department and the decision to grant or deny the CUP is made by a Zoning Administrator, an Area Planning Commission or the City Planning Commission. Written notice of the pending application is given to adjacent neighbors within 500 feet of the subject property prior to holding a public hearing. CUP decisions are appealed to the Los Angeles City Council. If the use of the property changes or if the use is discontinued or abandoned for a continuous period of one year, a new application for a CUP must be submitted.

Locating Near Schools

Los Angeles City's Municipal Code prohibits locating treatment programs for those with disabilities within 600 feet of schools, which is arguably a violation of both federal and state law including the Americans with Disabilities Act (ADA).

Reasonable Accommodation

Reasonable Accommodation requests provide flexibility in the application of land use and zoning regulations or policies when it is necessary to eliminate barriers to housing opportunities for an individual with a disability, or developers of housing for an individual with a disability. Under both federal and state fair housing laws, cities and counties have an affirmative duty to provide reasonable accommodation in land use and zoning rules, policies, practices and procedures where it may be necessary to provide individuals with disabilities equal opportunity in housing.[4]

Those California jurisdictions that have adopted reasonable accommodation procedures use a statutorily based four-part analysis in evaluating requests:

---

[3] Conditional Use Permits: http://www.ceres.ca.gov/planning/cup/condition.htm
[4] 42 U.S.C. §3604(f)(3)(B); Cal. Gov't. Code §12927(c)1

- The housing that is the subject of the request for reasonable accommodation is for people with disabilities as defined in federal and state fair housing laws;

- The reasonable accommodation requested is necessary to make specific housing available to people with disabilities who are protected under fair housing laws;

- The requested accommodation will not impose an undue financial or administrative burden on the local government; and

- The reasonable accommodation will not result in a fundamental alteration in the local zoning code and general plan.

Initial inquiries should be made to the local jurisdiction's planning department to determine whether there is an established procedure for seeking an accommodation. If there is not a written procedure, then the request for reasonable accommodation should be made in writing. Developers or providers of housing for persons with disabilities should be prepared to address each of the points set forth above.[5]

In May 2001, pursuant to federal Fair Housing Amendments Act of 1988 and California's Fair Employment and Housing Act, California's Attorney General Bill Lockyer sent a letter to every city and county in California encouraging them to amend their zoning ordinances to include a procedure for handling requests for reasonable accommodation. Both the cities of Los Angeles and Long Beach have since complied, but most other local jurisdictions have not[6]. The City of Los Angeles' procedure calls for a written request for reasonable accommodation to be made on a form provided by the Department of City Planning.[7]

Some local jurisdictions continue to advise developers and housing providers that exceptions to land use or zoning regulations must be made through a conditional use permit (CUP) or variance. Both the CUP and variance procedures require a public notice and hearing, which a request for reasonable accommodation does not, and this can create a forum for neighborhood opposition. It also has a discriminatory effect because the public hearing can stigmatize prospective residents with disabilities. In addition, both procedures do not use fair housing legal standards for determining siting for persons with

---

[5] Mental Health Advocacy Services, Inc., Fair Housing Reasonable Accommodation: A Guide to Assist Developers and Providers of Housing for People with Disabilities in California, February 2005.
[6] In late 2008, The County of Los Angeles indicated it is in the process of preparing a Reasonable Accommodation ordinance.
[7] Los Angeles Municipal Code Sections 12.03, 12.12, 12.13, 12.22

disabilities and may use other factors, rather than considering need based on the disabilities of the residents.

Examples of Reasonable Accommodations that are among those likely to be needed by developers and providers of housing for people with disabilities include the following:

> ❖ *Converting a detached garage into a habitable dwelling for a caretaker for an individual with a disability living in a single family zone.*
>
> ❖ *Extending the footprint of the housing to build ramps or make the interior accessible for wheelchair use.*
>
> ❖ *Increasing the fence height so that a person, who because of their mental disability fears unprotected spaces, can use the backyard.*
>
> ❖ *Reducing the number of parking spaces required based on the number of people who drive or have cars.*

➢ **Refer to Resource Appendix – 17 and 18** for more information on Fair Housing and Reasonable Accommodation.

State Pre-Emptions

Welfare and Institutions Code (W&IC) § 5120 – Facilities for Inpatient and Outpatient Psychiatric Care

W&IC § 5120 is a state law that stipulates that health facilities for inpatient and outpatient psychiatric care and treatment shall be permitted in any area zoned for hospitals or nursing homes, or in which hospitals and nursing homes are permitted by conditional use permit.

Welfare and Institutions Code § 5115 et. seq. – Homes for Six or Fewer Persons

Stipulates that a home licensed for 6 or fewer persons with mental disabilities can be located in any area zoned for residential use. (See also Health and Safety Code § 1566.3). Note that the fair housing laws also require that homes with more than six people with disabilities living as a family be treated as any other family for purposes of zoning.

SECTION D: MAKING THE SYSTEM WORK

DMH Siting Protocols

DMH has separate procedures for siting new facilities and siting new supportive housing developments.

PROTOCOLS FOR SITING NEW MENTAL HEALTH FACILITIES

A. All Contract Agencies and Directly-Operated Clinics

- ❖ **Contact the District Chief (DC) for the Service Area (SA)** in which the program is to be located. The agency/clinic seeking to site a new facility should be prepared to discuss the following:
  - Other programs in the area which provide similar services.
  - Other agencies and associations you could partner with to provide services.
  - Planning, zoning and variances that affect potential sites.
  - A Community Outreach Plan that takes into consideration local issues that may challenge your project such as parking, safety, signage, and community opposition.

- ❖ **Continue working with the District Chief** to successfully site the project by jointly planning who (DC and/or agency/clinic) will take responsibility for **aligning the support** of local policymakers and community groups including the Area Planning Councils, the Neighborhood Councils and local elected officials.

- ❖ **The District Chief will notify the Board of Supervisors** about the proposed project and file a **Golden Rod form.** The Golden Rod is a notification to the County Board of Supervisors which identifies the site and includes a statement of the local impact. The form must be filed with the County Board of Supervisors at least 30 days before an agency opens its doors.

- ❖ The District Chief will be in **full communication** with the agency/clinic of any Board Office concerns.

  - ➢ **Refer to Resource Appendix – 19** for a copy of the Golden Rod.

B. DMH Directly-Operated Programs Only

❖ **The District Chief will initiate a space request** with the DMH Administrative Services Bureau (ASB).

❖ **ASB will involve the Chief Executive Office (CEO).** The Board of Supervisors has delegated authority to the CEO to handle all matters related to site acquisition and development for county operated projects. Departments should not independently attempt to negotiate for space or initiate the project's development process. The DMH Administrative Services Bureau will assist in completing the appropriate forms and will help expedite the process with the CEO.

- The LAC-CEO Facilities and Asset Management Branch (FAM) provides for the planning, implementation, and management of real property related matters, including recommendations for the funding of new capital projects, commercial development of potentially surplus property, new property purchases and sales and lease acquisitions and renewals necessary to carry out various departmental missions. For further information, you may contact FAM by phone at (213) 974-2273; on-line at http://ceo.lacounty.gov/FAM; or in person at 500 W. Temple St., Room 754, Los Angeles.

- The LAC-CEO Real Estate Division (a Division of FAM) manages and negotiates all leased space for county departments. They can be reached at (213) 974-4300; on-line at the FAM address; or in person at 222 S. Hill St., Los Angeles. The Real Estate Division will initially ask you to submit a Request Evaluation (SRE) Form for Approval (an example is attached). Upon approval, a CEO Leasing Agent will identify potential sites for project and submit list of sites to Department.

PROTOCOLS FOR SITING NEW HOUSING DEVELOPMENT PROJECTS

These protocols are for all housing developers and community agencies who receive Mental Health Services Act (MHSA) or other mental health funds to develop housing projects. This includes projects in which in-kind mental health funds will be requested.

❖ **Contact the District Chief of Countywide Housing, Employment and Education Resource Development (CHEERD).** The agency/clinic seeking to site a new housing development should be prepared to discuss:
- The location of the proposed project, including the Service Area and the Supervisorial District and status of site control.
- Other partners in the project including mental health providers.

- Planning, zoning and other entitlements necessary to obtain a building permit, State and Federal environmental clearances, as applicable, and Article XXXIV compliance.
- A Community Outreach Plan that takes into consideration local issues that may challenge your project such as parking, safety, signage, and community opposition.

❖ **CHEERD District Chief will coordinate contact with the Service Area (SA) District Chief** in which the project will be located. The agency/developer seeking to site a project will be expected to do as follows:
- Discuss your proposal with the SA District Chief, SAAC or SPA Council.
- Work with the SA District Chief to align the support of local policymakers and community groups including the Area Planning Councils, the Neighborhood Councils and local elected officials.
- Coordinate any efforts to address community opposition, if needed, with CHEERD, SA District Chief and other County Departments.

❖ **CHEERD District Chief will notify the Board of Supervisors** about the proposed project and will inform the housing developer of any Board office concerns.

DMH Service Area Information

Roster of DMH Service Area District Chiefs (January 2009)

SERVICE AREA	DISTRICT CHIEF	Telephone	Email Address
Countywide Housing	Maria Funk	(213) 251-6582	mfunk@dmh.lacounty.gov
SA 1	JoEllen Perkins	(661) 223-3827	jperkins@dmh.lacounty.gov
SA 2	Ron Klein	(818) 598-6967	rklein@dmh.lacounty.gov
SA 2	Eva Carrera	(213) 738-3190	ecarrera@dmh.lacounty.gov
SA 3	Alfredo Larios	(213) 738-3572	alarios@dmh.lacounty.gov
SA 4	Edward Vidaurri	(213) 738-3765	evidaurri@dmh.lacounty.gov
SA 4	Laura Span	(323) 478-8200	lspan@dmh.lacounty.gov
SA 5	Karen Williams	(310) 268-2507	kwilliams@dmh.lacounty.gov
SA 6	Carol Vernon	(310) 668-3962	cvernon@dmh.lacounty.gov
SA 6	Jacqueline Wilcoxen	(323) 418-4209	jwilcoxen@dmh.lacounty.gov
SA 6	Yolanda Whittington	(310) 298-3671	ywhittington@dmh.lacounty.gov
SA 7	Ana Suarez	(213) 738-3499	asuarez@dmh.lacounty.gov
SA 8	Lisa Wicker	(562) 435-2337	lawicker@dmh.lacounty.gov

Map of Los Angeles County Service Areas and Supervisorial Districts

See the following pages for a Service Area map and a map of the 5 Supervisorial Districts overlaid on the 8 Service Areas

Los Angeles County Supervisorial Districts

> **Refer to Resource Appendix – 20** for detailed maps and information for each Supervisorial District.

Roster of City Officials in Los Angeles County

Los Angeles County has 88 municipalities, each with a city council and mayor. Because the 458-plus city council members and mayors in Los Angeles County are constantly shifting and changing, it proves difficult to keep a roster of mayors and city councils current.

Please refer to www.laalmanac.com/government/gl10.htm website to find a list of City Hall contact information and Internet links to their current rosters. Many of these links also have additional information (e.g., the city's Municipal Code) that can be very useful when siting a new project.

Los Angeles County Service Planning Areas
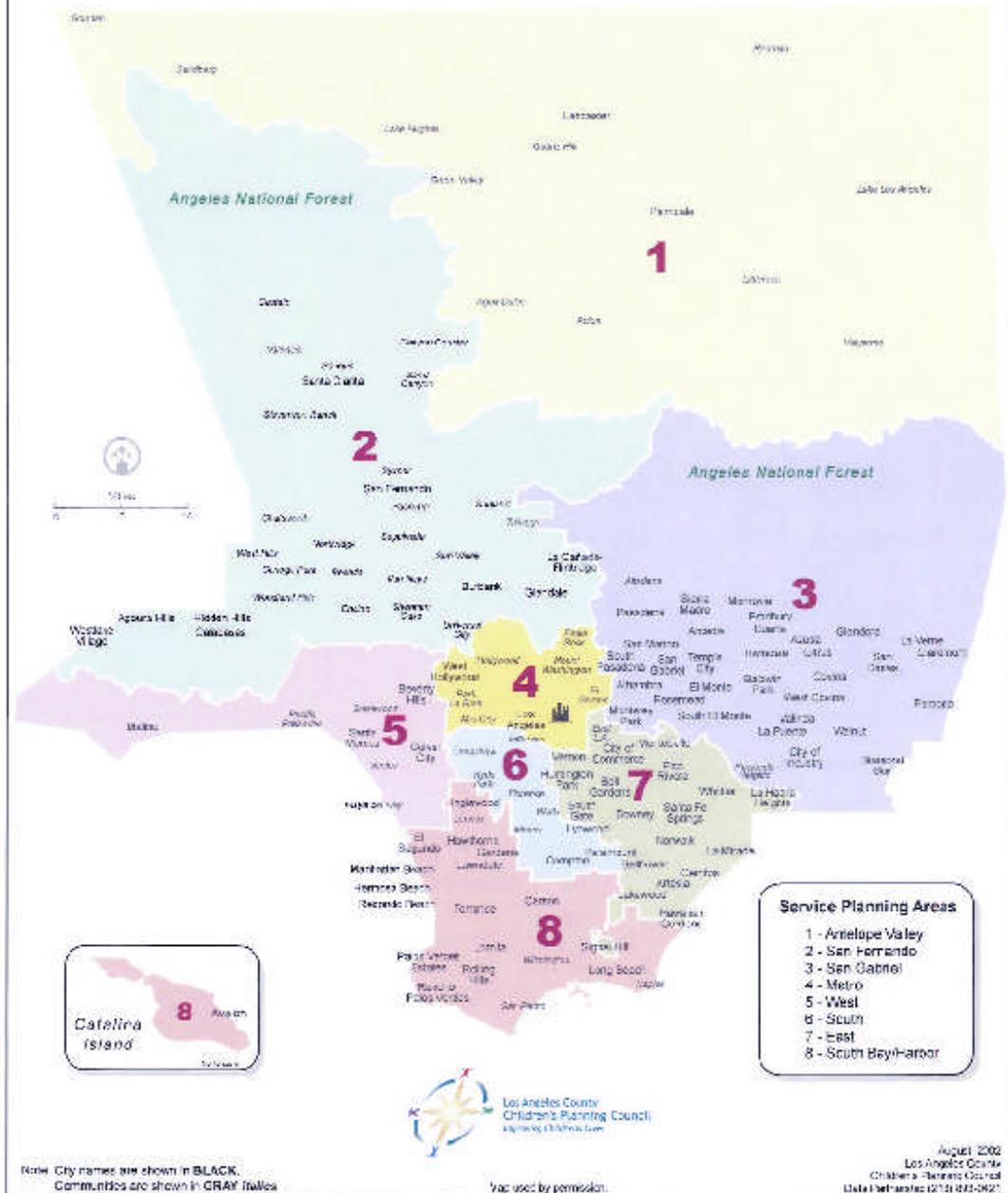
SECTION E: RESOURCE APPENDIX

GCA
STRATEGIES
Government & Community Affairs

CREATING A COMMUNITY OUTREACH PLAN

By Debra Stein

Developments Magazine, March 2006

Winning political and community support for your new resort or resort expansion starts with a community outreach plan. Your outreach plan identifies who you are trying to influence, what to say, how you will get your message across and when to reach out to different audiences.

Defining the Target Audiences

When it comes to drafting a community outreach plan, it helps to consider three different categories of participants. Tier 1 decision-makers such as mayors, council members, zoning commissioners, and city managers are the ultimate targets of your lobbying activities. You need Tier 1 decision-makers to both adopt pro-resort attitudes and to take pro-resort action, but you usually need help from Tier 2 influencers and Tier 3 constituents to lock down the support of these top-tier decision-makers.

Tier 2 influencers are respected community leaders who shape the opinions of Tier 1 superiors, community peers, and subordinate constituents. Once you have the chair of the Homeowners Association or the president of the Chamber of Commerce on board, you can benefit from the individually-powerful support of these Tier 2 leaders and ask them to tap into their broader base of members, constituents and colleagues.

Tier 3 constituents are more focused on their personal interests than on broader group interests. Individual voters, property owners, and members of organizations led by Tier 2 influencers form the fundamental "roots" in any grassroots campaign. Tier 3 constituents are the people who leave phone messages for their elected officials, sign letters to the editor, attend and testify at public hearings, and reassure Tier 1 decision-makers that they won't be punished on Election Day for approving a controversial resort project.

Defining Your Key Message

Your key messages are the pro-resort facts, arguments and beliefs that you want people to accept.

Most outreach messages focuses on how your proposal complies with the standards for what constitutes a "good project." You therefore need to understand which standards citizens and politicians will be using to decide whether your resort will be a good neighbor. The first place to look is at the legal criteria spelled out in the planning code. In addition to black-and-white legislative standards, however, communities often have policies or political goals that really control whether your project gets approved. A city's unofficial policy to avoid competition with Main Street merchants, for example, may be even more important than mere technical statutory standards for approval of your resort's expansion. In that case, your outreach would need to emphasize how current merchants will actually benefit from the resort plan.

Key messages must include a description of the project's benefits. These include fundamental "quantity of life" benefits such as jobs, tax revenues, and public services funded by tax revenues. But resort projects also create "quality of life" benefits, such as offering a better civic image or new community or recreational amenities. In general, people who support development projects do so because of the new benefits that responsible growth can offer.

By comparison, most opponents want to avoid change, so key messages must also explain how the resort proposal will preserve important aspects of the status quo. Messages such as, "The new lodge will be reflect the existing small-town character of the community" and "The golf course will be using recycled water to ensure that local wells aren't impacted" describe how your project will be compatible with neighbors' existing lifestyles.

One of the most important messages to be communicated to citizens is the fact that many people support the project. The misperception that "everyone" hates a proposal is one of the most damaging anti-project arguments you can face, and it must be rebutted immediately, effectively and continuously.

Picking Your Persuasive Strategy

There are three different types of persuasion, and your outreach plan must consider how each type of persuasive strategy will be used to win community support for your project.

Businesspeople tend to emphasize *rational persuasion*, offering technical data and logical arguments about why the project will be a good neighbor. In a perfect world, every citizen would have the time, interest and intellectual ability to weigh the facts, evaluate the substantive arguments, and reach a logical (and favorable) conclusion. However, many people are not motivated to look at the facts, or they are simply overwhelmed by the amount of data related to a complex resort plan. Even where citizens engage in rational evaluation of the

facts, that doesn't mean they will agree with you. That's because people's opinions aren't formed exclusively by the facts; they're also influenced by values and emotions. Savvy resort sponsors also engage in *emotional persuasion* that responds to the fears and feelings of citizens. Photographs of families and children can convey a promised community lifestyle much more effectively than technical reports, for instance. On the flip side: opponents' emotional appeals to peer pressure such as, "Everybody hates this project" or threats of voter reprisal can be extremely damaging.

When resort projects are particularly complex, most neighbors will rely on simplistic rules of thumb to decide whether or not they agree with you. Your communications plan therefore needs to consider the four elements of *peripheral persuasion*:

- <u>Source Characteristics</u>: The persuasiveness of a statement may depend less on what is said than who is saying it. A listener applying a source-based rule of thumb might simply decide that, "Likable speakers are always believable" or, "All lawyers lie." Your outreach plan should therefore take into account not just what you're going to say, but who is going to say it.
- <u>Message Characteristics</u>: When the validity of an argument is determined by message characteristics, it is the context of the message, not the content, that dictates is persuasiveness. For example, 86 percent of Americans believe that reference to statistics increases a speaker's credibility. Message that contain numbers, appropriate jargon, or seems contrary to self-interest are often deemed to be valid without more careful analysis of the contents.
- <u>Audience Characteristics</u>: Citizens who do not have the interest or ability to independently review the merits of your arguments often assume that "everyone else" has done so and that therefore they can rely on other people's opinions. The popularity of a proposal is conclusive proof that it's a good idea, and vice versa. Again, this reinforces why it is important to correct the misperception that "everyone" is opposed to your real estate proposal.
- <u>Channel Characteristics</u>: Many people will evaluate the soundness of an argument by looking at the communications tool used to convey the message. An expensive brochure might seem to guarantee a high quality project, or you'll hear, "Whatever shows up in the newspaper must be true." Pick your communication vehicles carefully!

Getting Your Message Across

There are several ways you can communicate with neighbors, and no single communication vehicle will meet all your outreach needs.

Developers often rely on *unilateral communication* tools such as direct mail, advertising, press releases or web pages to get their messages across. These communication tools allow the project sponsor to send information in a one-way stream to neighbors without providing a mechanism for citizens to directly communicate back.

Multiparty outreach events such as huge community workshops or massive neighborhood association meetings are a common form of outreach. These events are typically non-invitational: every member of the public is welcome to attend (including opponents), and all who attend are equally empowered to participate. Unless carefully managed, these monster events can turn into outreach nightmares. With so many people, so many issues, and so little time, it is rarely possible to answer everyone's questions or to let everyone speak their minds. And when people come to a meeting expecting to express themselves and find that they cannot, they get frustrated, and frustrated people often get very angry. Large groups can also enable hostile mob behavior or promote "groupthink," with opponents enjoying group reinforcement for anti-social attacks on you or your resort. At its worst, a huge community meeting may be merely a forum for opponents to meet each other and hear and adopt each other's agenda, a place where activists can impress their constituent with the extremity of their anti-project positions.

There are several alternatives to multiparty meetings. With *bilateral communications* such as one-on-one meetings or telephone calls, you create an intimate setting that allows you to receive information from the audience at the same time you are conveying your messages. *Invitational group meetings* are small events such as coffee-and-donut get-togethers in neighbors' living rooms, or small lunches with a group of local merchants. Hard-core opponents aren't part of the invitation list, and invited participants get an opportunity to learn about the resort concept in a personalized, interactive forum. Where you need to reach out to hundreds of citizens, consider more controlled events such as *open houses* stretching out over several hours or even several days, or breaking a large audience into facilitated roundtables.

Time to Think About Timing

So who you gonna call first? Do you file your application first and then talk with immediate neighbors? Do you sit down with potential opponents first and then meet with the district council member? Do you need to line up the newspaper endorsement early, or is the support of the Sierra Club more important?

Not surprisingly, there are no cold, hard rules that apply in every situation. Here are some factors to take into account when timing your outreach efforts:

- In general, you need to line up some strong supporters early on, before the project becomes too controversial. Having visible endorsers on your side right from the start will help prevent the misperception that "everyone" hates the resort idea, and the support of impressive community leaders can make it easier to recruit additional endorsers later.
- Public officials are often reluctant to commit their support for a project until they see evidence that there is constituent enthusiasm for the proposal. Rather than commencing your outreach efforts with a cold call on a key council member, consider scheduling the meeting after you have some support lined up. In fact, you might even consider bringing a couple of those important Tier 2 influencers with you to the meeting to help you pitch the project.
- People who live or work close to the proposed resort will often try to define their own enclave as the only "community" affected by the project. In fact, the entire town, county or region will benefit from a new or expanded resort. You need to set the stage with an expansive definition of "the community" before proximate neighbors narrow the political arena to just a small area, which is why it helps to mobilize regional organizations early in your outreach efforts.

Putting It All Together

When it comes to resort development, the purpose of community outreach is not to be popular: it is to win approval for your project. Rather than waiting for NIMBY nightmares to rear their ugly heads and then dealing with them in a reactive, defensive manner, you can anticipate and respond to political challenges with a proactive community outreach plan.

Debra Stein is the president of the San Francisco-based public affairs firm, GCA Strategies. She is the author of several books on NIMBYism and her firm specializes in controversial land use projects across the nation. For more information, e-mail Stein, call her at 415-391-4100 or visit the GCA Strategies Web site at www.gcastrategies.com.

GCA STRATEGIES

Government & Community Affairs

655 Montgomery Street Seventeenth Floor San Francisco, CA 94111
tel 415.391.4100   fax 415.391.8882   www.gcastrategies.com

PREPARING YOUR LOBBYING PLAN

Land Development Magazine - Fall 2004

By Debra Stein

Successful lobbying involves more than just making the sales pitch that would convince you to vote in favor of your own project. When the vote of every politician counts, you need individualized lobbying plans that outline exactly what to say and how to say it in order to meet the emotional and informational needs of each public official.

Lobbying plans start with an assessment of the politician's personality, decision-making style, and political behavior. You can gain insight into a public official by observing the individual's behavior, by consulting with people familiar with that official, or even by using psychometric personality assessment tools. With a basic understanding of each official's motivational and communications needs, you can then tailor advocacy messages to convince each politician to cast a "yes" vote for your project.

Introducing Supervisor Grant

Let's take a look at Supervisor Grant. After sitting through a few meetings of the County Board of Supervisors and talking privately with people who are familiar with Supervisor Grant, you have gained some general impressions about him. Mr. Grant is a tax attorney who has worked for several law firms during his career. He wears baggy suits, drives an old car, and carries an overstuffed briefcase with him wherever he goes. His resume indicates that he has served as president or chair of several civic committees and organizations. Supervisor Grant is known for his blunt and aggressive style. He is not afraid to speak up and often criticizes county employees when he thinks their work is incomplete or otherwise deficient.

Supervisor Grant frequently makes the motion to terminate board debate and vote immediately on agenda items. When it comes time for the Board to make a decision, Mr. Grant is often the only dissenting vote, particularly when he believes that a project sponsor has failed to demonstrate that a proposal meets the technical approval standards. Supervisor Grant appears to have few close friends at City Hall and is not comfortable engaging in social chit-chat.

The Lobbying Plan

Decisiveness: Supervisor Grant has an obviously forceful, direct personality. He has a blunt, assertive style. He is impatient with mistakes and does not defer to the county's professional staff. Supervisor Grant is a get-it-done guy: once he has heard enough to make up his mind, he is ready to act. That can be good if he has decided he likes your project, but you may need to encourage him to slow down and look more carefully at the facts if his initial response to your project is less than favorable.

As an outcome-oriented politician, Mr. Grant will want to know how your project will help the community achieve its immediate and long-range goals. As an ambitious leader with a string of chairmanships and presidencies behind him and possibly greater civic leadership in front of him, Supervisor Grant will also want to know how voting for your project will affect his personal goals for future civic service.

When dealing with strong decision-makers like Supervisor Grant, you need to be concise, specific, and logical. It is essential to get to the point and not waste time. Rather than telling Supervisor Grant what to do, you are best served by asking his opinion. If staff is delaying your project or insisting on additional, more detailed review, Mr. Grant could be a good ally to have on your side because he would rather take action than study something endlessly. Even if the county staff is opposed to your project, Supervisor Grant sees himself as the final arbiter.

Interpersonal Style: Supervisor Grant is not a sociable, warm kinda guy. He is not an easy-going conversationalist, and he is not a particularly persuasive speaker, even when he wants to be - if he were, then he would not end up as the sole dissenting vote on so many issues. Supervisor Grant's unimpressive suits and beat-up old car indicate that he is not out to impress anyone. He does not particularly care if he's popular, and he does not particularly care if your project is popular. What he cares about is whether your project is good enough to merit approval.

This tax attorney is a fact-oriented person, not a "people" person, so emotional appeals and human interest stories will not prove as effective on your behalf as the documents, reports, and evidence stuffed into Supervisor Grant's briefcase. In fact, that heavy briefcase suggests that Mr. Grant is a visual thinker who best absorbs information by reading it rather than by hearing it. So, in addition to making an oral presentation about the merits of your project, you should provide him with a written summary of the evidence and arguments about your project's merits.

Unlike his Board colleagues who prefer some personal interaction before talk turns to more serious subjects, Mr. Grant would rather that you get right down to business without getting too cozy or asking too many intrusive questions. Be respectful of his sense of privacy and his private sense of space. Supervisor Grant probably does not care to be touched and may even feel anxious if you sit too close to him or touch him too frequently.

Procedures and Rules: Supervisor Grant believes in rules. After all, look at what he does for a living. He interprets and applies a highly arcane set of tax laws and regulations. Before voting "yes" on your project, Mr. Grant will want confirmation that you have played by the rules and properly checked all the boxes. Anything that smacks of loopholes, evasions, or special treatment will make Supervisor Grant uncomfortable. Therefore, it is up to you to point out how the rules themselves anticipate and allow exceptions, variances, rezoning, or amendments. If you can show that you have followed the appropriate process and that your project complies with the adopted approval standards, then Supervisor Grant will be reluctant to deny your project merely because it is politically unpopular.

Mr. Grant will carefully review the evidence to determine whether your project meets legal and policy standards for approval. He is especially likely to give weight to the opinions of licensed engineers, certified planners, and other technical experts with procedurally validated qualifications. When making your pitch to Supervisor Grant, highlight both the expertise and conclusions of your technical experts.

P.S. Be on time for your meeting. Once Supervisor Grant has set an agenda or schedule for himself, he is will feel disconcerted or even angry if it is disrupted.

Risk Tolerance: Mr. Grant's employer-hopping resume suggests that he is comfortable with change. This is consistent with his action-oriented decision-making style: when Supervisor Grant sets a goal, he is willing to accept change and some risk to achieve that goal. While some of his colleagues may vote against projects that seem to threaten the status quo, Mr. Grant is not afraid of land use proposals that offer untried concepts or even a redefinition of the community's future.

For Supervisor Grant, a decision does not have to be perfect. While some of his colleagues may believe that it is better to make no decision at all than to a make a flawed decision, Supervisor Grant believes that it is better to make a big-picture decision today, even if that decision is imperfect, knowing that there are procedural safety nets and opportunities to correct problems tomorrow. Tools that can help reduce risks associated with voting "yes" on an imperfect application include requirements that the sponsor continue working with the

professional staff after the public hearing to refine grey areas, the imposition of permit conditions, and reliance on monitoring and reporting procedures.

Your Message Plan

One you have outlined Supervisor Grant's emotional and communication preferences, you can tailor your messages to meet those preferences. For example, messages about how your project will create new jobs in the community can be pitched to respond to Supervisor Grant's own personality and decision-making style.

- Presentations that focus on how your project will help the county achieve its goals for youth employment or for higher-paying jobs will resonate with Supervisor Grant's goal-oriented decision-making style.
- Mr. Grant has an introverted, fact-oriented style, so it would be a mistake to rely solely on anecdotal emotional appeals to get your message across. Rather than simply lining unemployed citizens at the microphone to testify about the need for jobs in the community, a better strategy would be to provide written, factual evidence about unemployment and job creation in the county. You should also enlist the assistance of technical experts to refocus attention away from emotional anti-project attacks and back to pro-project facts that support your messages.
- Rules rule for Supervisor Grant. You need to demonstrate that you have followed every step of the application and review procedure. To show how your project complies with the legal standard for "necessity and desirability," for example, you can describe the needed and highly desirable jobs your project will bring to the community. If you need a rezoning to put an employment center in the middle of a residential neighborhood, point to the code section that gives the county the flexibility to adapt zoning in unique circumstances.
- Supervisor Grant is comfortable with change, so he will respond positively to messages about how a project will attract new types of industry to the community or different types of jobs than are currently available to local residents.

No single lobbying strategy will work for every politician because every politician has a unique personality and decision-making style. By crafting individualized lobbying plans for each public official, you can better meet the psychological and interactive needs of each decision maker to get the big "yes" vote you need for your project.

Debra Stein is the president of the San Francisco-based public affairs firm, GCA Strategies. She is the author of several books on NIMBYism and her firm specializes in controversial land use projects across the nation. For more information, e-mail Stein, call her at 415-391-4100 or visit the GCA Strategies Web site at www.gcastrategies.com.

HOLDING AN OPEN HOUSE

Open House vs. Community Forum

What is the most effective way to communicate to your community about supportive housing and to get input from the community? In the past, developers have held open meetings or forums to perform the dual functions of informing the community about their plans and hearing concerns from the community. Unfortunately, this kind of meeting often engenders an "us vs. them" atmosphere.

Rather than stage an open meeting, consider an open house. This allows for more person-to-person contact, and greater sharing of concerns and information. Since the interactions take place in small groups there is less likelihood that some of the negative aspects of group behavior will be reinforced.

Space – The Open House should be held in an accessible location. If it can be held in a place with positive community connections like a church or school, so much the better.

Time – Hold the Open House on a weekday evening from 5:30 PM till 8:30 PM. This provides an opportunity for people to stop off after work or to come after dinner. Make sure you pick a date that does not conflict with other important community events. (A Massachusetts developer unwittingly chose the first night of Passover for a community meeting about a housing project. Many of the leaders of the community were Jewish and considered this scheduling oversight a sign of bad faith by the non-Jewish developer).

People – The most important element for a successful Open House. Having enough people available to answer questions, distribute materials, show videos and conduct virtual tours is critical to a good open house. Think of it like a fair or exhibitor's hall at a convention. Have at least four different areas for people to get information and talk with supportive housing proponents. Here are some suggestions:

1. "Reaching Home Video" – Schedule half- hourly showings of this 13 minute video.

2. Picture Gallery – Exhibit photos of successfully completed and operating SH projects. A continuous loop slide show is another good visual tool.

3. Question and Answer sessions with small groups - Have proponents make themselves available to answer questions. Have fact sheets available which address some of the myths about supportive housing.

4. Service Provider – Have the service provider agency present to talk about their experience and their approach.

5. If possible, include people who live in supportive housing now or who are interested in living in a new supportive housing project in the community.

Refreshments are always welcome as is some kind of child care. Make the evening as upbeat and positive as you can. Before the open house, provide training for the people conducting the Open House using tools from this Toolkit.

ORGANIZING SUCCESSFUL AFFORDABLE HOUSING TOURS

Seeing is believing. Whether the tour is large or small, informal or carefully orchestrated, introducing people to supportive housing "up close and personal" can have a dramatic impact on the way people view it. People who are tolerant and open-minded often become passionate advocates after visiting a project. Those who are neutral can become allies, and opponents of supportive housing, after talking with and meeting real people in supportive housing can become less obstructionist if not actually accepting. Stereotypes are challenged, burning concerns are allayed, and minds are opened. The following are suggestions gleaned from organizers of recent housing tours on how to make the most of them.

It takes organizing. This is not a case of "If you hold it, they will come." Often, the hardest part of organizing a tour is motivating the target audience to attend, especially opponents of a proposed development. Substantial planning and effort may be required to produce a good turn-out.

Making the logistics as user-friendly as possible will help, e.g. the tour bus picking up participants at a convenient location, date, and time. Invitations should be as personalized as possible and have a clearly-devised "hook" to grab your intended audience. You can use popular speakers as tour guides to attract an audience. Nail down some key participants and then leverage these to get others to come. Peer pressure may help. If project opponents are the target audience, they should know that decision-makers will be informed about your offer and their response.

Make sure someone will be taking pictures and/or slides of the tour for future use.

Providing refreshments, even simple drinks and cookies, always makes for a welcoming spirit and happier participants. If at all possible, before you settle on details, someone on the team should do a "dry run" of the tour and the program to determine whether it's realistic. Test every critical decision you make by asking yourself: Will this help us meet our goal? In one example, organizers decided to not inform the media about its tour so that the participants could have frank, off-the-record conversations.

Corporation for Supportive Housing Southern New England Program
Small Towns Toolkit: Organizing Successful Affordable Housing Tours October 2006 1

62

Making points in your program
At the beginning of the tour, the tour leader could ask a few questions to elicit participants' concerns and fears about supportive housing. (For example, "What are the most common concerns about supportive housing that you have heard?") This accomplishes a few things: (1) it helps establish rapport between the facilitator and the group; (2) it gives you a feel for the interests, concerns, and sophistication of your audience; and (3) it sets up what points you need to make in subsequent presentations.

Have someone available at all times (e.g. on the bus between stops) who can answer questions that arise after seeing one development and before seeing another. Pass out survey forms for participants to give their suggestions for improvement. Explain how you will use their feedback, e.g. Construction/Design department will review it.

The presentation at a building could include pictures of the site before rehabilitation or construction to make a point about how it improved the neighborhood. You may want to include a slideshow or a small discussion panel as part of the tour program. Invite current residents of existing developments, property managers and current neighbors to give their "testimony," as well as the project manager or a representative of the developer. However, go over their comments with them beforehand. A volunteer at a shelter unwittingly told visiting guests, "I like to help out here, but I wouldn't want to live next door."

Obviously, residents and on-site staff should always be informed about the tour and its purpose. Those who are expected to speak should be prepared to answer questions that are likely to be asked. If the resident has a conflict with the management about her apartment, resolve it before the presentation. If your target audience is opponents, you'll want to leave time in the program to elicit and respond to their concerns. Don't promise to answer everything there and then

Handouts can help
Providing printed materials can take the pressure off of your desire to communicate large amounts of complex information in a short time. They can also provide participants something to browse through during the inevitable "down" time in transit. You can include "project profiles" which give vital information about each development, "resident profiles" which educate participants about who needs supportive housing, and "issue profiles" which reinforce and further document the points you are making in your presentations, e.g. about property values and professional management.

Corporation for Supportive Housing Southern New England Program
Small Towns Toolkit: Organizing Successful Affordable Housing Tours October 2006 1

63

Evaluation and follow-up
During the last leg of the ride or at the end of the presentation, invite participants to evaluate the tour. This reinforces your interest in their concerns and could help you design more effective tours in the future.

To get the most of your efforts, don't stop after the tour bus is empty. Set up a meeting with the team to debrief and evaluate your efforts. Call interested or enthusiastic participants to recruit them for future work. Send follow-up letters to those who attended, thanking them, answering any unanswered questions, and directing their attention to the next step -- whatever it is. Using your original mailing list, send follow-up letters to those who did not attend, inform them of the tour's success and offer them another chance to find out about supportive housing.

Most of all don't let the persuasive power of successful supportive housing developments go to waste. Show them your work, and show it often.

(Adapted from *How to Organize Successful Affordable Housing Tours, Building Better Communities Network*)

Corporation for Supportive Housing Southern New England Program
Small Towns Toolkit: Organizing Successful Affordable Housing Tours October 2006 1

64

GCA
STRATEGIES

Government & Community Affairs

CREDIBILITY, RESPECT, AND POWER: Sending the Right Nonverbal Signals

The Commissioner - Fall 2006

By Debra Stein

Planning commissioners spend a lot of time choosing the right words to avoid sending the wrong messages, but it is equally important to monitor the nonverbal communication signals that accompany your words. In fact, research shows that more than 93 percent of communications effectiveness is determined by eye contact, body language, facial expression and voice quality. When you're trying to convey important messages like, "I am telling the truth," or, "I respect you," or when you're establishing the power positions of the parties, the nonverbal signals you send can be even more important than the particular words you are speaking. Understanding nonverbal communication can help you monitor your own physical cues and understand what other people are telling you, even when they are not speaking out loud. Some of the following suggestions are most relevant in planning commission meetings; others apply to less formal circumstances outside the hearing room, when you are nonetheless still acting in the role of planning commissioner.

Honestly, Now …

People involved in high tension civic discussions often feel very distrustful, and planning commissioners need to carefully monitor both incoming and outgoing nonverbal signals of honesty. How can you tell if a witness is exaggerating or lying? How can you make sure you are not inadvertently sending signals of dishonesty? Here are some tips on how to enhance your own credibility and double-check to see if you are really getting the straight story from other people.

We are very suspicious of people who won't look us in the eye. Speakers rated as "sincere" make eye contact three times more often than "insincere" speakers. For 90 percent of Americans, intensive, personal eye contact means using your right eye to look into the right eye of the listener. Whether you're right-handed or left-handed, chances are that you use your right eye to gather data and use your left eye only for depth perception. To test this theory, use your left eye to look at someone else's left eye … feels awkward, doesn't it? Making sincere, respectful eye contact, then, involves using your right eye to look into your counterpart's right eye. Do not stare vaguely at a speaker's nose or forehead, and avoid

shifting eye contact between the left and right eyes, which can send messages of aggression or sexual attraction.

Maintaining sincere eye contact doesn't mean you have to stare like an unblinking lizard. Honest speakers blink between 10 and 20 times per minute. When Richard Nixon attended his first Watergate press conference, he blinked up to 40 times a minute. It is especially important to avoid excessive blinking when facing a news camera or when sitting on a brightly-lit podium, where strong lights may naturally trigger a lot of blinking.

There really is something called the "Pinocchio Syndrome." Stress and tension can cause delicate nerves in the face to tingle, so people who are lying or otherwise aroused really do scratch their noses, touch their cheeks, and rub their eyes more frequently than calmer speakers. Keep your hands away from your face!

The same autonomic response that makes the nerves in your face tingle can also thicken the consistency of saliva. Dishonest or uptight speakers often lick their lips, swallow, or clear their throats more often than relaxed and happy speakers. Have some water on hand when making a stressful presentation so that you do not send inadvertent messages of dishonesty.

People with something to conceal often conceal their hands. In stressful situations, keep your hands where people can see them. People who talk with their hands are also perceived as being more powerful and more confident than communicators with hidden hands.

Showing Respect

It is easy to say, "Treat citizens with respect," but what do you actually do to demonstrate your esteem and regard? Let's start with paying attention. In casual conversation, we tend to prove that we are listening merely by making a sensible response to the speaker's statement. A teenager who appears to be ignoring a parent's instructions to turn off the television will suddenly demonstrate adequate listening by turning the TV off. In more formal settings or where there is distrust between the parties, it is important to demonstrate attention towards a speaker long before the citizen actually begins speaking.

The first way to show a speaker that you are paying attention to what is being said is to abandon other activities that are competing for your attention. Set aside reports and turn off your cellular telephone. Put your pen down as soon as a citizen approaches the microphone in order to indicate that you are now turning your attention to the speaker. Needless to say, turning away from the witness to

exchange private whispers or jokes with a fellow commissioner is an obvious and inappropriate misdirection of attention.

Leaning forward is an effective way to convey attention to and interest in a speaker. By inclining forward in your chair, you create a more intimate environment between yourself and the speaker that seems to exclude other people or distractions. Leaning back, on the other hand, signals that you feel distanced from the speaker or unwilling to get personally interested in the issues.

Eye contact is a crucial way we signal our respect for another person, and it matters both who you look at and how you look. In an audience setting, some commissioners adopt a machine gun approach to eye contact, shifting their heads from side to side and quickly skimming their eyes over the entire audience. No personal relationship is formed with individual audience members, who feel both disrespected and more likely to view the Planning Commission as impersonal targets to attack.

No matter how big the audience is, genuine, respectful eye contact involves looking at one individual at a time, using your right eye to look into the other person's right eye. Select one audience member and make personal eye contact with that citizen. Next, look at another part of the audience and make eye contact with another individual. Even if you cannot make individualized eye contact with each person in the room, attendees will perceive that you are respecting each citizen as a unique individual and trying to interact on a personal level.

We have a natural tendency to make more eye contact with people we know and like, and with an individual who has asked a question and is now listening to the answer. In an audience setting, however, looking exclusively at one person in the room can actually send messages of disrespect to everyone else in the audience. Yes, the one person you are looking at will feel important, but everyone else in the audience will feel excluded and offended. If you have something to say of interest to one audience member assume that it is of interest to everyone, so shift eye contact regularly throughout the room to convey your respect for everyone.

Planning commissioners who process information best when it is in writing may alternate between looking at the witness and looking at staff reports and other printed materials, trying to link what they are hearing to the written evidence before them. Other commissioners are such focused listeners that they need to eliminate visual distractions that could compete with auditory evidence. These commissioners may close their eyes to listen to a witness or seem to stare straight "through" the speaker without really seeing anything, or gaze vaguely at their desk or off into space. While these can be effective strategies to help

commissioners balance verbal, written, and visual input, if overused, they can send the inadvertent message that the commissioner isn't "really" listening.

It is extremely important to keep your hands away from your mouth. Roughly three-fourths of people who are covering their mouths when listening are hiding thin, compressed lips of disapproval. Covering your lips sends the signal that you do not like the person you are listening to, that you disagree with what is being said, or that you do not want to be involved in the discussion. These negative nonverbal signals are often accompanied by positive but insincere cues such as nodding one's head or smiling, but the rejection message always prevails. In fact, a savvy audience can often predict the Planning Commission's vote simply by watching what happens when various witnesses are testifying. If a supporter stands up to speak at the microphone and the majority of commissioners slowly raise their hands to conceal thin, compressed lips of disapproval, then supporters know they aren't getting their message across. If too many audience members start covering their lips while you are speaking, then you know that you need to take another approach to get through to listeners.

While keeping your hands away from your mouth is a must, it is perfectly O.K. to touch other parts of your face while listening. Resting your chin on you hand while listening, touching your cheek with your finger or pencil, or adjusting your glasses all send the message that you are listening carefully to what is being said and working hard to understand its meaning.

Powerful Planning

Power is a real part of the world of planning and politics. Neighbors who feel pushed around feel resentful and angry, while commissioners who appear weak, ineffective, or lacking in confidence may be unable to achieve important civic goals.

Your perceived power has something to do with your title, your authority and your expertise, but it has a lot to do with the nonverbal signals you send. One of the earliest ways power is demonstrated is through our handshake. Power is not established by the bone-crushing strength of your grip, but by the position of your hand in relationship to the other person. Offering your hand with your palm facing downward signals your desire to intimidate the other person, your belief that the other person is "beneath" you, or your wish to dominate the other person. When you offer your hand with the palm face down you're telling your counterpart, "I'm the top dog, get out of my way before I push you out of the way." Not surprisingly, men are more likely than women to offer their hands palm down, especially when shaking hands with a woman. Be careful that you don't automatically offer your hand downwards, which can send inadvertent signals of disrespect or condescension.

Shaking hands with your palm facing upwards shows a conciliatory attitude or suggests that you see yourself as weaker than your counterpart. When someone has forced you into a submissive, palm-up handshake, you cannot establish dominance simply by squeezing your hand in a vise-like grip; the only way to regain power is to use your other hand to touch the other person's arm while you are shaking hands. Shaking hands with your palm vertical to the floor sends a neutral message and is usually the most appropriate way to offer your hand. And an important tip for men: shake hands with a woman exactly the same way you shake hands with a man. Merely clutching a woman's fingertips conveys one of the lowest messages of contempt.

Beyond the handshake, hands communicate power in several ways. Powerful people speak with their hands and point with their index fingers while speaking. Like Prince Charles, they clasp their hands behind their backs while standing or walking. On the other hand, people who engage in hand-washing motions, clutch their fingers, rub the back of their necks, put their hands in their pockets, or touch their body or face may be sending signals of nervousness or insecurity, so be aware of what you are doing with your hands to ensure you are sending appropriate signals of confidence and authority.

The person with the tallest shoulders at the conference table is usually perceived as being the most powerful. When it is important to establish control in a professional situation, pick a tall chair, sit fully back in your seat, and keep your shoulders up and your head high. If you are trying to encourage cooperative negotiations or consensus among equals, then consider sitting in a seat that is less intimidating compared to your counterparts'.

Powerful people occupy a lot of space. They spread their belongings across the table and even intrude into other people's personal space by touching the individuals or their belongings. Not surprisingly, men tend to touch women twice as often as women touch men.

No matter how much space you like to occupy, it is important to keep in mind that everyone has a sphere of private space around them into which intruders are not welcome. When you inadvertently invade someone's private bubble, that individual feels threatened. Parties engaged in friendly conversation usually stand between two and five feet from each other. Business discussions and professional presentations are usually carried out at a distance of up to 12 feet. Territorial dimensions, however, can vary considerably depending on the race, sex or cultural background of the people involved. Asians, North Americans and people of northern European descent, for instance, prefer more space between speakers than most Latinos, African-Americans, Arabs, or Jews do. Men tend to define a territorial buffer that is larger than the personal space women reserve for themselves. Men tend to feel threatened when their turf is invaded from the front,

while women dislike intrusions from the side and prefer to have strangers sit across from them at a table. So when you see someone moving closer or farther away from you, do not automatically adjust the distance to your own comfort level. Instead, consider whether the individual has moved in order to minimize his or her own sense of spatial discomfort.

Sending the Right Signals

While it is always important to pick one's words carefully in the high-profile world of planning, it is equally important to monitor and control one's nonverbal communication skills. Through the careful control of body placement, eye contact, and hand movements, planning commissioners can better communicate with the public.

Debra Stein is the president of the San Francisco-based public affairs firm, GCA Strategies. She is the author of several books on NIMBYism and her firm specializes in controversial land use projects across the nation. For more information, e-mail Stein, call her at 415-391-4100 or visit the GCA Strategies Web site at www.gcastrategies.com.

REBUILDING LIVES & COMMUNITY SHELTER BOARD

Community Acceptance
Good Neighbor Agreement Guidelines

Purpose:

The template components are not to be understood as specific agreement requirements; but, rather, items that must be considered when negotiating a "Good Neighbor" agreement. A Good Neighbor Agreement serves several important purposes: 1) promoting communication, respect, and trust among neighbors, residents of proposed facilities and apartments, providers, and funders by assuring that the rights and responsibilities of all parties are understood and monitored; 2) assuring that safety, security, codes of conduct, and property management standards are established and upheld; 3) establishing successful, long-term relationships while providing all affected parties with the opportunity with respect to safety, security, codes of conduct and property management to be involved in planning, decision-making, monitoring, evaluating and re-negotiating the agreements; and 4) providing a structure and process for the resolution of conflicts minimizing the incidence of litigation. Good Neighbor Agreements do not include any items that are governed by law, such as fair housing laws and municipal codes.

This Agreement Template, Best Practices Guidance and Model Agreements will be provided by supportive housing providers and homeless shelter operators to neighbors and representatives of local businesses and organizations when a shelter or supportive housing developer has Site Control (meaning when a lease or purchase contract is executed or when ownership otherwise has changed).

Property
- Neighborhood property: maintenance and appearance standards
- Landscapes
- Trash and litter
- Design Input

Neighborhood Codes of Conduct
- Agency is responsible for informing all residents of neighborhood codes of conduct.
- All neighbors and residents uphold mutual behavior expectations, such as neighborhood codes of conduct.

Community Safety
- Community policing and crime prevention
- Block watches
- Security lighting

Regular Communication and Information Sharing
- Marketing Disclosure: Information about provider's other facilities; communications about property concerns
- Process for continued communication among parties
- Participation in facility and neighborhood committees and boards
- Mechanisms for sharing information and resources
- Mechanism for informed planning and decision-making that is inclusive of the interests of all stake holders
- Responsibility for management of media relations

Good Neighbor Agreement Monitoring and Compliance
- Compliance mechanisms
- Responding to non-compliance
- Implementation of agreement provisions by the parties
- Enforcement of federal, state and local laws, regulations, and or ordinances
- Dispute resolution mechanisms
- Fair eviction procedures
- Re-affirming and re-negotiating agreements

The Process for Development of Good Neighbor Agreements

1. When a developer (shelter operators, supportive housing developers, program sponsors) of supportive housing or a homeless shelter has Site Control, the developer must initiate a proactive approach to gain community support. The developer is responsible for maintaining a complete written account of all activities, including correspondence and meeting records.

2. All stakeholders shall be appropriately notified in writing by the developer and provided the opportunity to participate in developing and executing a Good Neighbor Agreement that will guide the relationship of the developer and the stakeholders. The developer must document the notification process and response. The stakeholders shall include the following among others as appropriate:
    i) Neighbors
    ii) Neighborhood organizations and agencies
    iii) Neighborhood businesses
    iv) Other community-based groups

3. The developer shall sponsor meetings with stakeholders, providing information about all of the following:

   i) The needs of the homeless population
   ii) The laws protecting homeless people
   iii) The agency's experience providing shelter services and/or supportive housing
   iv) The proposed development, including an operations plan
   v) Best Practices Guidance, see www.csb.org
   vi) Model Agreements, see www.csb.org
   vii) The Good Neighbor Agreement Template

4. The developer and the stakeholders shall identify and address any concerns of the neighbors, as well as how the community can serve the development and how the development can serve the community.

5. The developer and stakeholders shall negotiate a Good Neighbor Agreement as appropriate to the neighborhood and the development, considering neighborhood specific provisions that promote good relations, including agreement on all or part of the following:

   i) Property
   ii) Neighborhood Codes of Conduct
   iii) Community Safety
   iv) Regular communication and information sharing
   v) Neighborhood participation in the project
   vi) A monitoring and compliance process, including a complaint/dispute resolution process
   vii) Who will sign the Agreement

6. The developer shall make all reasonable efforts to obtain a signed agreement between the developer and the stakeholders.

7. The parties to the Agreement shall sustain dialogue, implement the plan and hold follow-up meetings as needed.

Debra Stein is the president of the San Francisco-based public affairs firm, GCA Strategies. She is the author of several books on NIMBYism and her firm specializes in controversial land use projects across the nation. For more information, e-mail Stein, call her at 415-391-4100 or visit the GCA Strategies Web site at www.gcastrategies.com.

DEALING WITH AN ANGRY PUBLIC

Planning Commissioners Journal - Winter 2000

By Debra Stein

Contrary to popular belief, angry citizens are not an inevitable and unavoidable part of the decision-making process. With a little advance planning and some subtle interpersonal tactics, you can avoid triggering citizens' negative emotions and prevent nasty behavior that disrupts good governance.

Don't Make 'Em Mad

Citizens often feel angry when they are frustrated - that is, when they want something and think you are unfairly preventing them from getting it. You can minimize the sense of disappointment and resulting anger by making certain that citizens have realistic expectations: "The hearing on the proposed shopping center isn't going to come up on the agenda for at least another two hours." At a public hearing, the chair should describe the agenda and sequence of events, tell the audience when they'll have an opportunity to speak, and set the ground rules regarding testimony topics or time limits.

People are less likely to feel angry when they understand that their frustration isn't the result of unfair or arbitrary action. It's particularly important to explain the appropriate rules when it looks like some people are being granted special rights: "Our adopted rules provide that the project sponsor has fifteen minutes to describe the application, and members of the public are then allowed three minutes apiece."

People get angry when they feel manipulated, ignored, insulted, made to look ridiculous, or treated in a condescending manner. While it is always important to treat citizens with the respect they deserve, it's especially critical to do so in potentially volatile situations. Use active listening techniques to show that you really care what the speaker is saying. Refer to speakers in a courteous manner ("…as we heard from neighbors like Dr. Garcia and Mrs. Lee …"). Covering your lips is often a signal of contempt or rejection, so keep your hands away from your face when listening.

Keeping Nasty Behavior Under Control

Just because a citizen feels angry doesn't mean he or she necessarily needs to behave in an angry manner. There are several practical steps you can take to avoid hostile conduct even when emotions are running high. You can start by explaining at the beginning of the meeting (or before a controversial item comes up) that the commission always values civility and does not welcome rude or hostile remarks. People are also more likely to behave badly when they think they're just anonymous members of a faceless crowd. You can minimize aggressive behavior by making it easier to identify individuals and hold them responsible for their own anti-social actions. Use name tags in a group setting. Have speakers introduce themselves before testifying. Call on citizens by name and avoid referring to the audience as an anonymous entity ("You guys are all …").

Keeping Cool When Things Get Hot

Even your best efforts to avoid unpleasant emotions and head off nasty conduct may not be enough. When tempers start to fray, you may need step in to cool things down.

First of all, remind citizens that abusive testimony is not allowed and reiterate your intention to enforce those rules. Bring the power of peer pressure into play by reminding speakers that angry tirades make many of their fellow citizens feel uncomfortable and interfere with the audience's efforts to understand what's happening. Be firm, but don't be a bully.

Rather than trying to quash an outburst, it may be helpful to allow an angry citizen to let off some steam. A confrontational attack can be shifted to a more cooperative dialogue simply by asking an angry person to give details about why he or she is so upset. This can calm the person down, and may yield information that will be of value to the planning board members.

You can often respond to an angry tirade simply by acknowledging part of it. For example, you can accept one element of the attack while denying another ("I agree that placing homeless shelters in residential neighborhoods can pose serious problems, but I think we can address those problems"). Or you might agree to the possibility the speaker may be right ("You could be right about that, but we need to hear from others at tonight's meeting").

Under some circumstances you may wish to attack the use of attacks. First, show you understand the substantive content of what the citizen is trying to get across: "I understand that you don't want this factory next to the school …" Next, comment on the unacceptable manner in which the issue was presented "… but

it's not appropriate to shout at the Zoning Board or call board members names." You can then insist the citizen behave in a more cooperative manner by noting that neither you nor any other party is going to engage in such unpleasant behavior. A word of caution, however: don't expect to placate an angry citizen by engaging in a counterattack. While attacking the use of attacks can neutralize the impact of an angry individual on the rest of the audience and encourage others to refrain from aggressive behavior, the target of your rebuke may feel shamed and become even angrier.

Summing Up:

Dealing with anger means more than just reacting when people start protesting; it means planning ahead to anticipate and avoid problems. Ask yourself: what is it about this project or situation that might trigger negative emotions like frustration or loss of face? Know the facts and explain the rules so citizens don't start feeling like they're being treated unfairly.

Just because citizens feel angry doesn't mean they have to behave in an aggressive manner. Think about what you're going to do once people start losing their cool: you can firmly enforce the rules, allow angry people to vent, ask for more, agree in part, or even attack the use of attacks. With a strategic approach and some advance planning, you can help provide for civil discussion and debate on contentious matters.

Debra Stein is the president of the San Francisco-based public affairs firm, GCA Strategies. She is the author of several books on NIMBYism and her firm specializes in controversial land use projects across the nation. For more information, e-mail Stein, call her at 415-391-4100 or visit the GCA Strategies Web site at www.gcastrategies.com.

GCA
STRATEGIES
Government & Community Affairs

IN THE HOT SEAT: DEALING WITH HOSTILE QUESTIONS

Upward Directions Newsletter for Managers of Community Associations – Fall 2005

By Debra Stein

Communication between managers and residents often occurs in the form of question-and-answer sessions during community meetings. Too often, however, a productive Q-and-A session breaks down into a grilling by hostile owners. Here's how to handle antagonistic questions effectively.

Look Away From the Speaker

Americans are taught that it is polite to look at the person who asked the question when giving an answer. In a group setting, however, the key to defusing a hostile question is to move attention away from the individual who asked it. When someone lobs an aggressive comment or question at you, immediately shift eye contact away from the speaker and address your comments to the rest of the audience. Treating every participant equally reduces the emotional rewards to be gained by attention-seeking troublemakers and avoids reinforcing the impression that the toughest critic is a leader who deserves special deference. Don't look back again at the questioner during your answer and, unless you really want a follow-up question, don't return to that individual at the end of your response to ask, "Does that answer your question?"

Redirect the Question

As you look away from the hostile questioner, restate the question. This transfers the spotlight away from the questioner, who will be more inclined to sit down quietly rather than continue standing while audience attention is focused on you. All members of the audience may not have heard the question, so your restatement helps enlighten those who may not have been listening carefully. Finally, restating the question give you a few extra moments in which to come up with a good answer.

Never repeat an inflammatory question word for word. Instead, rephrase it in a more reasonable or less emotional way. When a critic snaps, "Why are you insisting on building this ridiculous community center where no one wants it?,"

shift eye contact away from the questioner and rephrase the question: "The question is, how did we select this site for the new community center?"

Another technique is to use the question as a springboard for other issues. For example: "This question raises a number of issues, which we should look at piece by piece…."; "Before we go on to that topic, let's go back to something Mrs. Garcia said a few minutes ago." Other common transitions used to redirect attention include:

- "The real issue is…"
- "It probably makes more sense to talk about…"
- "Another related question is…"
- "What we should be asking ourselves is…"
- "Another thing is…"
- "A more important issue to consider is…"

Reestablish Eye Contact

Although you don't want to maintain eye contact with the hostile questioner, it is crucial to make good eye contact with the rest of the audience. Good eye contact conveys interest in what listeners are thinking as well as your concern about whether your own comments are being understood. Moreover, speakers who make good eye contact are much more likely to come across as trustworthy, likeable, and persuasive than those who avoid good eye contact.

So what constitutes good eye contact? For starters, most people use only their right eye to look at another person; the left eye is used only for depth perception. Good eye contact involves using your right eye to look intently into the right eye of the other person. To test this theory, use your left eye to look into the left eye of another person. Feels awkward, doesn't it?

Select one person at a time to look at. Establish eye contact and hold that gaze until you shift eye contact to another audience member. If you cannot look at every person in the room, then at least make eye contact with every section of the audience: the front, the back, and both sides of the room. Although people naturally prefer to look at friendly folks who are nodding and smiling, you can reduce hostility by making eye contact with persons with unfriendly expressions on their faces. Eye contact with unfriendly people makes it more difficult for them to view you as an impersonal enemy and can help reassure them that you really care what they think.

How long should each glance last? Average eye-to-eye contact lasts a bit more than one second. When one person is looking at another without reciprocal eye contact, the glance lasts about three seconds. Glances that last too long can

send inadvertent messages of aggression or sexual attraction; gazes of longer than 10 seconds provoke extreme stress.

The average speaker makes eye contact 40 percent of the time while talking, although a speaker trying to come across as really honest or powerful may engage in more frequent eye contact. The average listener looks at the other person somewhere between 60 and 75 percent of the time while listening. A powerful person will make less eye contact when listening to a subordinate, while a less powerful person might engage in almost continuous eye contact while listening.

Debra Stein is the president of the San Francisco-based public affairs firm, GCA Strategies. She is the author of several books on NIMBYism and her firm specializes in controversial land use projects across the nation. For more information, e-mail Stein, call her at 415-391-4100 or visit the GCA Strategies Web site at www.gcastrategies.com.

MESSAGES THAT WORK: OPENING A MENTAL HEALTH CLINIC OR WELLNESS CENTER

We need mental health/wellness facilities in this area

- Individuals with mental illness live in every part of the county: it is as common in suburbia as in cities.
- Individuals with mental illness need to have a facility close to their home where they can receive professional and supportive services.

Helping others help themselves

- The facility is for people who want to help themselves with the help of professional staff.
- Persons with mental illness can recover and lead independent, productive lives becoming an asset to their community
- *Appeal to the audience's moral interests:* Has there ever been a time in your life when you needed help? Don't these people deserve the same?
- These services would also be available for you and your loved ones should you need them, e.g., a support group for caregivers, for those dealing with post disaster trauma, or severe grief, etc.
- Persons who lead independent, productive lives are an asset to the community, not a drain on its resources.
- Discuss the different kind of programs offered at the facility.
- Wellness centers are different than an outpatient mental health clinic. They are for individuals who no longer need intensive on-going treatment with a therapist. They are designed to offer support services to help these persons find work, learn about health care, exercise and nutrition, promote social activities and develop good budgeting and planning skills.

The facility is well designed and will be professionally maintained.

- Show renderings of facility, landscaping, exterior lighting and how it fits with other buildings on the street.
- Security guards will prevent loitering, extreme behavior and visiting by persons unconnected to the services provided in the facility.
- There will be adequate parking.
- The agency has a proven track record of maintaining similar projects, keeping them free of graffiti and trash.

Invite the community to tour other agency-run facilities, bring in speakers who are familiar with these facilities such as nearby businesses and neighbors, local police, real estate agents, faith based leaders, and any other credible local agencies.

The mental health facility will not affect property values

- Good design and maintenance, and the presence of security guards to prevent loitering and unwanted visitors, will ensure the facility will not blight the neighborhood.
- Individuals from the community will be invited to join the Board and provide input on the operations and maintenance of the facility.

The mental health facility will not increase crime in the area

- Study after study has shown that persons with mental illness do not engage in criminal behavior to any greater extent than the general public. In fact, they are more likely to be victims.
- Security guards on the premises during the facility's open hours will deter criminal activity including the presence of drugs and alcohol.
- External lighting and security alarms at night will deter criminal activity after hours.

Invite a police officer to speak about the safety of having a mental health facility in the area.

MESSAGES THAT WORK: DEVELOPING A SUPPORTIVE HOUSING PROJECT

We need supportive housing in this area

- Supportive housing for people with mental illness meets a countywide need. People with mental illness live in every part of the county.
- The availability of affordable, supportive housing will help people with mental illness maintain an independent and productive lifestyle.

Supportive housing works

- This kind of housing is for people who want to help themselves. Many residents go to school, work and pay taxes. They make a contribution to the community.
- Supportive housing helps rebuild lives that once had few or limited prospects. Has there ever been a time in your life when you needed help? Don't these people deserve the same?
- People who live in supportive housing want the same things in life as you do: decent and affordable housing, a safe environment, good schools for their children, reliable health care, respect in the community and workplace and good neighbors.
- Supportive services often relate to employment, education, healthy living, budgeting, and linkages to community services - the kind of support designed to maintain living independently and productively.

The housing is well designed and will be professionally maintained.

- Show renderings of the housing, landscaping, exterior lighting and how it fits with other buildings on the street.
- The site will be well-maintained and kept free of graffiti and trash.
- The agency has a proven track record of maintaining similar projects, keeping them free of graffiti and trash.
- Supportive housing cannot be distinguished from other housing in the neighborhood.
- There will be adequate parking.

Residents will

> *Invite the community to tour other agency-run sites, bring in speakers who are familiar with these sites such as neighbors living nearby, local police, real estate agents, or even a prospective resident.*

- Residents are part of the community and want to be living there.
- On site staff will prevent and deter loitering and visits by uninvited people.
- Property management and supportive services staff have extensive experience with similar programs.
- Good relations will be facilitated by a **Good Neighbor Agreement**[8] which will allow neighbors to be informed and have a line of communication with the facility.

The supportive housing project will not affect property values

- Good design, landscaping and maintenance will ensure the facility will not blight the neighborhood.
- Many studies have shown that supportive housing will not lower property values and may even raise them when the property is beautifully maintained.

> - *Invite persons from the community to join the Board*
> - *Invite a Real Estate Agent to address the community*
> - *Show pictures of other housing projects*

The supportive housing project will not increase crime in the area.

- Study after study has shown that persons with mental illness do not engage in criminal behavior to any greater extent than the general public. In fact, they are more likely to be victims.
- Good neighbors will exhibit good behaviors. The Good Neighbor Agreement will be strictly enforced.

> *Invite a police officer to speak about the how having a mental health facility in the area will not increase the level of crime.*

---

[8] See Sample Good Neighbor Agreement

GCA STRATEGIES
Government & Community Affairs

MESSAGES THAT WORK: MESSAGES TO MOBILIZE COMMUNITY SUPPORT

Journal of Housing & Community Development **- May/June 2001**

By Debra Stein

Community opposition is one of the more costly aspects of facility siting, and many exciting community development plans never get beyond the planning stage because of neighbors screaming, "Not in My Back Yard!" How do you persuade folks to accept a proposed development plan, and then get those supporters to publicly endorse it?

Supporters of affordable housing and more complex community development plans embrace several common values and attitudes. Community support can increase significantly by framing your arguments to respond to these beliefs. Here are 10 messages that work.

1. You care about the community. While most opponents have trouble focusing beyond their own self-interests, likely supporters see themselves as socially responsible people who also care about what's best for the entire community.
2. You understand. Supporters care about people who are less fortunate than they are, and are able to feel sympathy or empathy. Women are substantially more likely than men to define themselves as empathetic.
3. You don't blame people in tough circumstances. While opponents often feel that people who will benefit from community development are to blame for their own poverty or negative condition, supporters recognize that disadvantaged people are usually facing temporary external problems such as unemployment, lack of housing, or lack of social service programs.
4. Generosity feels good. Supporters like the good feelings that come from helping people in distress. Internal rewards include avoiding guilt and confirming one's self-image as a caring person; external rewards include the respect of one's peers and gratitude from people who will benefit from the project. Opponents of affordable housing and service facilities, on the other hand, often worry about whether they're being tricked or they're getting too little reward for too much sacrifice.

5. You're an ethical person. Supporters care more about being "right" than about being part of the mainstream. Opponents, on the other hand, are often strongly influenced by the (mis)perception that "everyone" hates the proposed development plan.
6. You're consistent. In the past, supporters have publicly committed themselves to helping those less fortunate, and support for today's community-oriented proposal is consistent with those prior commit-ments. Past charitable contributors and volunteers, members of social justice groups, and active religious participants are examples of individuals who have made past commitments to social altruism.
7. Facilities should be fairly distributed. Supporters tend to agree that every neighborhood should bear its "fair share" of affordable housing or community-oriented service facilities - even wealthy or suburban neighborhoods.
8. The project will fit in. Spending money on good design and a detailed operations plan is a good investment. Neighbors are much more likely to support a proposed community development proposal if they believe it will be well-designed and responsibly operated.
9. Promises will be enforced. It usually isn't enough to simply pledge that commitments made to neighbors will be fulfilled. Incorporating those promises as enforceable permit conditions or as part of a "Good Neighborhood Agreement" provides supporters the reassurance they need that the new development project will operate the way it is supposed to.
10. Don't Reduce Size. This isn't a message, but it's a very important piece of advice. While you might be willing to reduce the size of your project or number of users served, it is often not possible to cut the project down enough to materially reduce opposition. Supporters, on the other hand, can actually be turned off if they think you're compromising too much.

These headlines may be far too simplistic to be used verbatim in any outreach materials, so be sure to customize your advocacy campaign to meet the specific circumstances of your own community. Additional public opinion could also reveal effective messages and concessions unique to your proposal.

Debra Stein is the president of the San Francisco-based public affairs firm, GCA Strategies. She is the author of several books on NIMBYism and her firm specializes in controversial land use projects across the nation. For more information, e-mail Stein, call her at 415-391-4100 or visit the GCA Strategies Web site at www.gcastrategies.com.

THE IMPACT OF SUPPORTIVE HOUSING ON SURROUNDING NEIGHBORHOODS
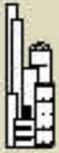
EVIDENCE FROM NEW YORK CITY

The Impact of Supportive Housing on Surrounding Neighborhoods: Evidence from New York City

This policy brief is a summary of the Furman Center's research on the effects supportive housing has on the values of surrounding properties. The full study is available at http://furmancenter.nyu.edu.

What Is Supportive Housing?

Supportivehousingisatypeofaffordablehousingthatprovideson-siteservicestopeople who may need support to live independently. Residents may include formerly homeless individuals and families, people with HIV/AIDS or physical disabilities, young people aging out of foster care, ex-offenders, people with mental illness or individuals with a history of substance abuse. Residents in supportive housing developments, unlike those in temporary or transitional housing options, sign a lease or make some other long-term agreement. Developments provide a range of services to residents, which can include case management, job training and mental health or substance abuse counseling. Supportive housing developments are run by non-profit organizations that typically provide both support services and management.

Researchers have found supportive housing to be an effective and cost-efficient way to house disabled and formerly homeless people. [1] The combination of permanent affordable housing and support services is seen as key to providing a stable environment in which individuals can address the underlying causes of their homelessness—at far less cost than placing them in a shelter or treating them in a hospital.

See, e.g., Culhane, Dennis, Stephen Metraux and Trevor Hadley. 2002. Public Service Reductions Associated with Placement of Homeless Persons with Severe Mental Illness in Supportive Housing. *Housing Policy Debate.* 13(1): 107 - 163; Lipton, Frank R., et al. 2000. Tenure in Supportive Housing for Homeless Persons With Severe Mental Illness. *Psychiatric Services.* 51(4): 479-486.

[1]

nyu's Furman center for real estate & urban Policy
the impact of Supportive Housing on Surrounding neighborhoods: evidence from new york city

2

Supportive Housing in NYC

Supportive housing grew out of attempts in the late 1970s and early 1980s to provide services to mentally-ill individuals who were homeless or living in substandard, privately-owned Single Room Occupancy (SRO) buildings. Soon thereafter, nonprofit groups formed to rehabilitate the housing in addition to providing on-site services.

By 1990, New York City nonprofits were operating over 2,000 units of supportive housing. The success of these efforts led the state and city to sign a historic joint initiative to fund the creation of thousands of new supportive housing units for homeless persons with mental illness. The "New York/New York Agreement," signed in 1990, was the first of three initiatives that have helped spur the development of over 14,000 units in more than 220 supportive housing residences in the city for formerly homeless and inadequately housed people with a range of disabilities. As Figure A shows, the overwhelming majority of these developments were built in Manhattan, Brooklyn and the Bronx. As seen in Figure B, there has been

Figure a: Supportive Housing Developments in our Study by Borough (as of 2003)

fairly steady development throughout the past two decades, with a big building boom following the 1990 NY/NY agreement.

SignedinNovemberof2005,the"NewYork/ New York III Agreement" was the largest yet, committing $1 billion to create 9,000 units of supportive housing (both scattered-site and single-site[2]) for homeless and at-risk individuals and families with disabilities in New York City over ten years. The large scope of this initiative ensures that there

Figure B: Supportive Housing Developments completed annually
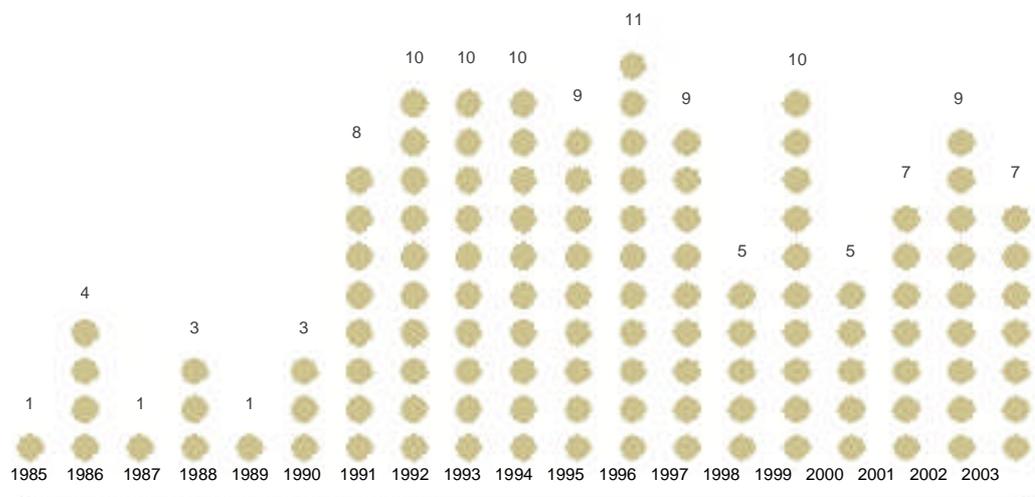
Note: This figure includes all developments examined in this study: all supportive housing opening in New York City before 2004 that resulted from new construction or the gut renovation of a vacant building.

[2] Our research looks only at the impact of single-site supportive housing (developments in which the supportive housing units all are located in a single building with on-site social services), but it is important to note that New York City has an additional 9,000 supportive housing units that are scattered-site (dispersed within non-supportive housing buildings).

nyu's Furman center for real estate & urban Policy
the impact of Supportive Housing on Surrounding neighborhoods: evidence from new york city

3

will continue to be a robust development pipeline of supportive housing to house homeless New Yorkers living with mental illness and other challenges.

As providers of supportive housing begin to implement the NY/NY III agreement, however, they are encountering two related and significant obstacles: New York City has a serious shortage of land suitable for building such developments; and community opposition to hosting supportive housing further limits the sites on which supportive housing can be built. The state and city require some form of public notification for all proposed supportive housing developments, and opposition by the local community often makes it difficult or impossible for developments to secure the necessary funding and land use approvals.

Despite the critical role that supportive housing plays in helping to address the problem of homelessness, communities asked to host the housing often resist, expressing fears that the housing will have a negative impact on the neighborhood. Neighbors voice worries, for example, that the supportive housing will increase crime, drain the neighborhoods' services and overburden its infrastructure, bring people to the community whose personal appearance or behavior will make residents and visitors uncomfortable, or otherwise decrease the quality of life in the neighborhood. They also commonly express a concern that supportive housing will depress the value of housing in the neighborhood, thereby depriving them of potential returns on their investment, and triggering a spiral of deterioration.

What Do We Know About Neighborhood Impacts of Supportive Housing?

Theoretically, supportive housing developments could either depress or raise neighborhood property values. If the development isn't well-maintained or doesn't blend in well with the surrounding community, it could have a negative impact on neighborhood property values. Similarly, if the residents of the new supportive housing engage in offensive behavior or participate in or are targets for illegal behavior, the housing might cause prices to drop. On the other hand, if a new development is attractive and replaces a community eyesore, such as an abandoned or vacant property, or helps to house people who otherwise would be living on the streets nearby, it likely would have a positive impact on property values. Similarly, if the new development is a conscientious and good neighbor and provides useful services to the community, it could raise prices.

While some who oppose supportive housing may do so regardless of the facts, objective, credible research about the experiences other neighborhoods have had with supportive housing should help to inform discussions about proposed developments. Some researchers have studied the effects of group homes, but few have looked specifically at the supportive housing model. Moreover, previous studies have been limited by data constraints, including small sample sizes (as few as 79 units) and limited time frames, and have studied effects in low-density neighborhoods, making it difficult to generalize their results to denser urban settings.[3]

The Furman Center's research aims to fill this gap in the literature with a rigorous, large-scale examination of the impacts of approximately 7,500 units of supportive housing created in New York City over the past twenty years.

---

[3] See, e.g., Galster, George, Peter Tatian and Kathryn Pettit. 2004. Supportive Housing and Neighborhood Property Value Externalities. *Land Economics.* 80(1): 35-54; for studies of precursors to supportive housing such as group homes, see, e.g., Colwell, Peter F, Carolyn A. Dehring and Nicholas A. Lash. 2000. The Effects of Group Homes on Neighborhood Property Values. *Land Economics.* 76(4): 615-637.
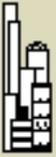
About Our Research

In order to measure the impacts of supportive housing on property values, we use a large dataset with information on the sales prices of all apartment buildings, condominium apartments and one to four family homes selling in the city between 1974 and 2005, as well as property-level data on the characteristics of the units sold. We link these data to a list of all the supportive housing developments and their addresses, which we compiled with assistance from the New York City Department of Housing Preservation and Development (HPD), the New York State Office of Mental Health (OMH), the Supportive Housing Network of New York (SHNNY)—the member association of nonprofit supportive housing providers in New York State, and the Corporation for Supportive Housing (CSH)— a financial and technical assistance intermediary to supportive housing providers. This comprehensive dataset includes 7,500 units in 123 developments that opened between 1985 and 2003 and either were newly constructed or the result of gut renovations of

vacant buildings. [4] The median size of the 123 developments is 48 units.

Identifying the impacts of supportive housing on the values of neighboring properties is challenging, primarily because it is difficult to disentangle what causes what—to determine whether supportive housing affects neighboring property values or whether neighboring property values affected the decision to build supportive housing in the neighborhood. Developers of supportive housing might, for example, be more likely to build the housing on sites in neighborhoods with very low property values, because more city-owned sites are available in such neighborhoods, because community opposition may be lower in these neighborhoods, or because developers can only afford to build in neighborhoods with the lowest property values. In fact, a simple comparison of census tracts in the city reveals that in 1990, before most supportive housing was sited, tracts that now have supportive housing tended to have higher poverty rates and lower homeownership rates than tracts that do not (see Table A).

table a: Demographics (as of 1990) for census tracts with and without Supportive Housing

| Indicator* (as of 1990)	All Tracts in NYC	Tracts that now have Supportive Housing**	Tracts without Supportive Housing
Number of Tracts	2,217	102	2,115
Poverty Rate	19.3%	31.4%	18.4%
Homeownership Rate	28.6%	10.9%	30.5%

Source: 1990 Decennial Census data (NCDB). *All reported numbers represent the mean value across census tracts, weighted by population. **Tracts with supportive housing are those that are host to the 123 supportive housing developments in our study.

[4] Because we are interested in the impacts new developments have on a neighborhood, our data on supportive housing developments only include new construction or projects that involved the complete, physical rehabilitation of a formerly vacant building. We did not include instances where an occupied building received cosmetic rehabilitation or was converted into a supportive housing development without undergoing substantial renovation.

nyu's Furman center for real estate & urban Policy
the impact of Supportive Housing on Surrounding neighborhoods: evidence from new york city

4
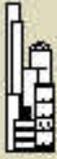
Figure c: methodology

Supportive housing development is represented by the X. We compare prices of properties within 500 feet and 1,000 feet of the development to similar properties in the same census tract but more than 1,000 feet away before and after the supportive housing is built.

Price differences between properties inside each ring and those more than 1,000 feet away from the site *before* supportive housing is built.

Price differences between properties inside each ring and those more than 1,000 feet away from the supportive housing *after* it opens.
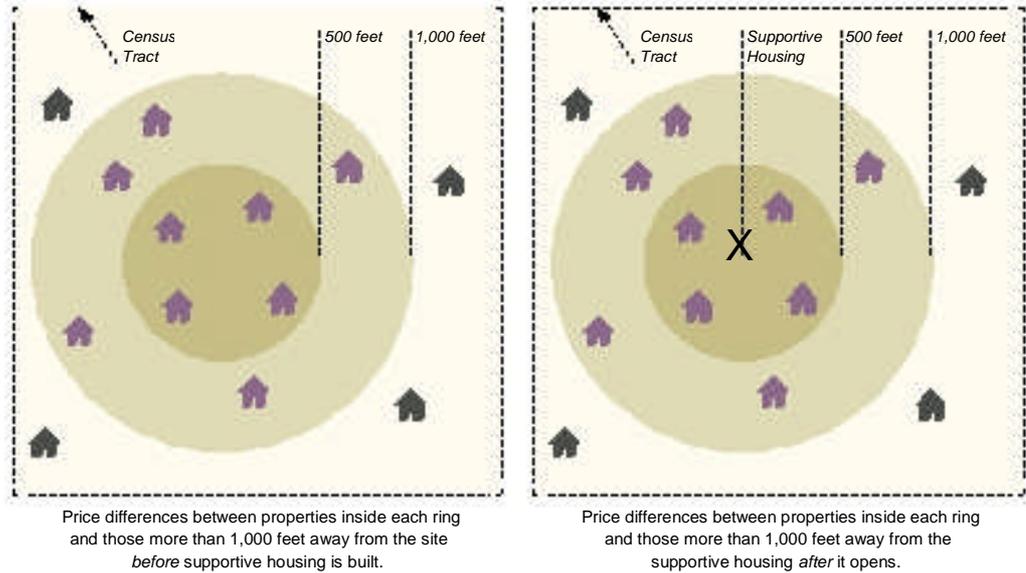
We address this problem by controlling for the difference between the prices of properties very near to a supportive housing site and the prices of other properties in the same neighborhood before the supportive housing is constructed. Specifically, our research compares the price differences between properties within 500 and 1,000 feet of a supportive housing development, before and after it is built, with a comparable group of properties more than 1,000 feet from the site but still within the same census tract.[5]

Our strategy is illustrated in Figure C. Our approach controls for differences in prices between properties near to supportive housing sites and other properties in the neighborhood before supportive housing is built. It also controls for neighborhood price appreciation over time. Accordingly, we are able to specifically isolate the impact of the supportive housing. Our approach

also allows us to examine whether impacts vary with distance from the supportive housing development, because the impact on a property closer to a development might very well differ from impacts on properties still affected but further out in the 1,000 foot ring.

Finally, because impacts might be felt as soon as people learn that a supportive housing development is going to be built, and because construction of any building may bring noise, truck traffic, and other problems, we exclude the construction period from our estimate of property value differences between properties within the ring of supportive housing and those beyond 1,000 feet, before supportive housing opens.

[5] One thousand feet is approximately the length of four North/South streets in Manhattan; across the city, on average, 1,000 feet is about the length of two blocks. While previous property value impact studies have looked at larger distances, it is unlikely that the relatively small developments we study would have an effect on property values many blocks away in the fairly dense Manhattan, Bronx and Brooklyn neighborhoods in which they are concentrated.

nyu's Furman center for real estate & urban Policy
the impact of Supportive Housing on Surrounding neighborhoods: evidence from new york city

5

What Do We Find?

Our research finds little evidence to support neighbors' fears that supportive housing developments will reduce the price of surrounding properties over time. To the contrary, we find that the opening of a supportive housing development does not have a statistically significant [6] impact on the value of the properties within 500 feet of the development.

We find that two to five years before a supportive housing development opens, properties within 500 feet of the site sell for almost 4 percent less than properties in the comparison group. This indicates that supportive housing developments are generally being built in areas that are more distressed than the surrounding neighborhood.

In the five years after completion, we find that the prices of those nearby properties experience strong and steady growth, appreciating more than comparable properties in the same neighborhood but further than 1,000 feet from the supportive housing.

As seen in Figure D, which illustrates the impact of a new supportive housing development of median size (48 units) on properties up to 500 feet away, there is a slight increase in the value of nearby properties when the development opens (compared with their value before construction began), but this difference is not statistically significant. After the supportive housing opens, we see a statistically significant rise in the value of these nearby properties, relative to property values in the comparison group. As a result, the four percent discount neighboring properties experienced before the supportive housing was built steadily narrows over time.

Moving farther away from the development, we find that properties between 500 and 1,000 feet away, unlike those less than 500 feet away, see a statistically significant drop in value when the building is under construction and when the supportive housing opens (compared to prices more than 1,000 feet from the development but within the neighborhood). But once again, we find that prices then show a steady relative gain in the years after completion. That pattern might suggest that the positive effects of the sup-

Figure D: Sales Prices of Properties Within 500 Feet of Supportive Housing relative to comparison Group, by year relative to completion (For median Size Development of 48 units)

In this figure, the dotted line represents what we estimate would have happened to the prices of nearby properties had there been no new supportive housing development; the solid purple line represents the results of our analysis, which show steady growth in the value of nearby properties.
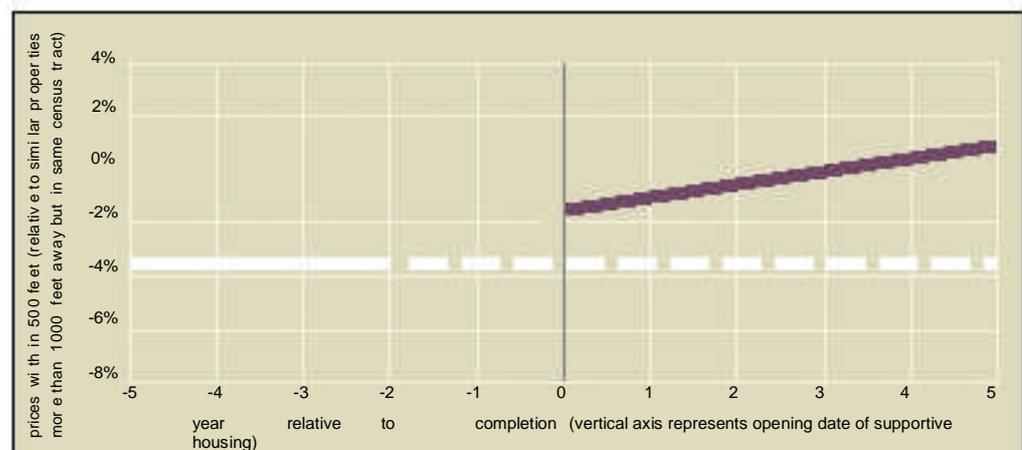
[6] The term "statistically significant" refers to the likelihood that the differences between the groups being compared (in this study, the difference between the values of the properties near supportive housing and those further away) could have occurred by chance. If statistical methods show that results are statistically significant at the 95 percent level, we can be sure that the probability that the results are due to pure chance is five percent or less. Generally, researchers will consider results reliable only if they are statistically significant at the 90 (or higher) percent level.

7

nyu's Furman center for real estate & urban Policy
the impact of Supportive Housing on Surrounding neighborhoods: evidence from new york city

portive housing are diluted farther away from the site and initially are outweighed by community uneasiness about the housing, but as the neighborhood grows comfortable with the supportive housing, prices show steady growth relative to the comparison properties.

In sum, our research reveals that the prices of properties closest to supportive housing—which are the properties opponents of supportive housing claim are most likely to be affected by the development—increase in the years after the supportive housing opens, relative to other properties located in the neighborhood but further from the supportive housing. Prices of properties 500 to 1,000 feet from the supportive housing may fall somewhat while the buildings are being built and as they open, but then steadily increase relative to the prices of properties further away from the supportive housing but in the same neighborhood. Our results accordingly suggest that over time, the values of homes near supportive housing do not suffer because of their proximity to the supportive housing.

Does the Size or Type of Supportive Housing Matter? Does the Population Density of the Neighborhood Matter?

Because of the diversity of supportive housing developments and the neighborhoods in which they are being built, we also wanted to evaluate whether characteristics of either the development or the neighborhood influence any effects the development has. We were somewhat surprised to find that the effects on neighboring property values do not depend on the size of the development (number of units) or the development's characteristics, such as whether the development sets aside a certain number of affordable units for neighborhood residents. The impact supportive housing has on property values also does not differ between lower and higher density neighborhoods.

glass factory, *a supportive housing development in the East Village, managed by BRC.*

93

What Do These Findings Mean?

Our findings show that the values of properties within 500 feet of supportive housing show steady growth relative to other properties in the neighborhood in the years after supportive housing opens. Properties somewhat further away (between 500 and 1,000 feet) show a decline in value when supportive housing first opens, but prices then increase steadily, perhaps as the market realizes that fears about the supportive housing turned out to be wrong.

The city, state, and providers of supportive housing must continue to maximize the positive effects of supportive housing and ensure that supportive housing residences remain good neighbors. But the evidence refutes the frequent assertions by opponents of proposed developments that supportive housing has a sustained negative impact on neighboring property values.

jerome court, *a supportive housing development in the Bronx, managed by Palladia, Inc.*

tHe Furman center For real eState anD urBan Policy
is a joint research center of the New York University School of Law and the Robert F. Wagner Graduate School of Public Service at NYU. Since its founding in 1995, the Furman Center has become the leading academic research center in New York City dedicated to providing objective academic and empirical research on the legal and public policy issues involving land use, real estate, housing and urban affairs in the United States, with a particular focus on New York City. More information about the Furman Center can be found at www.furmancenter.nyu.edu.

8

SAMPLE OUTREACH BROCHURE AND ENDORSEMENT CARD
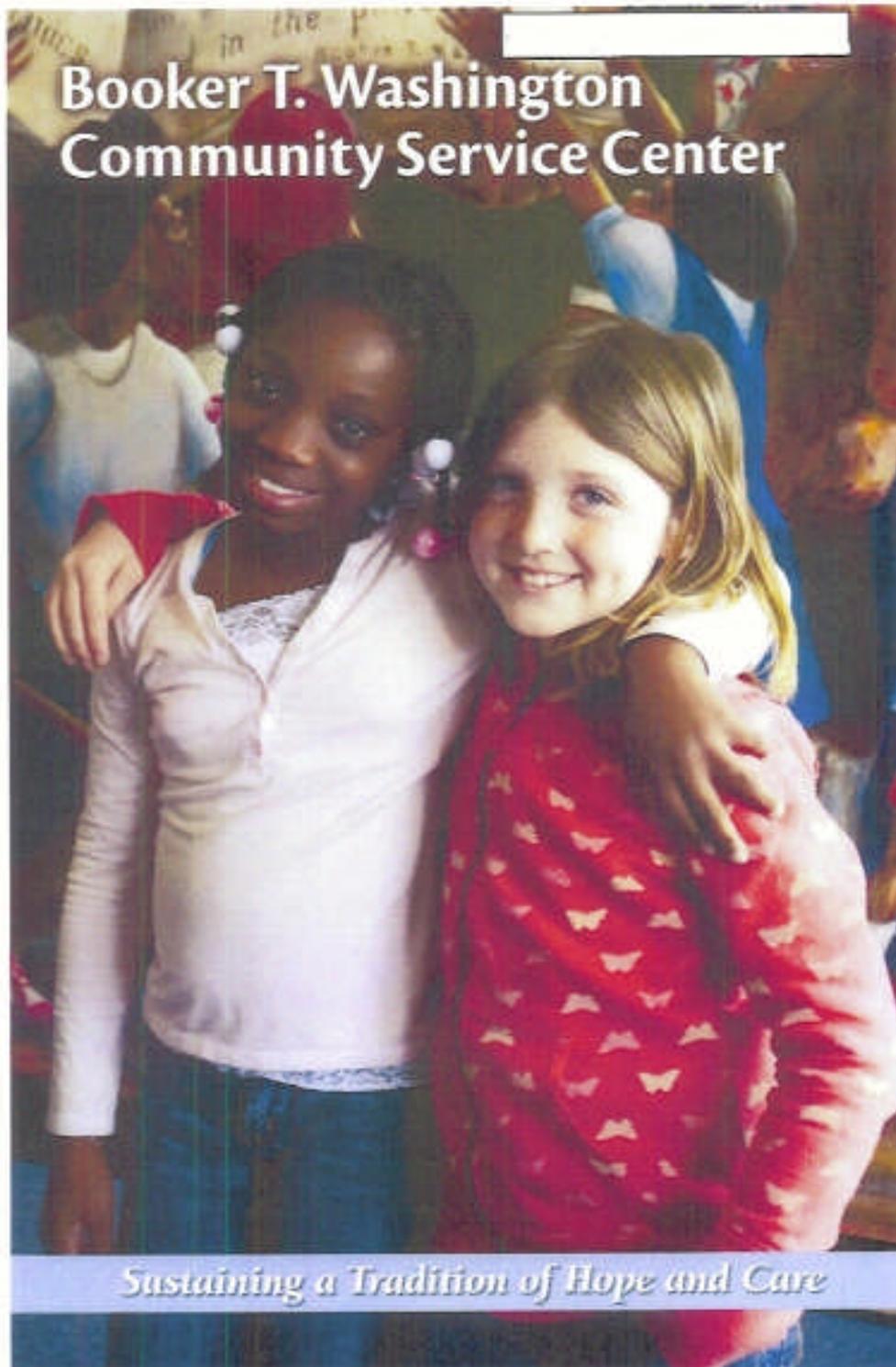
For nearly a century, the **Booker T. Washington Community Service Center (BTWCSC)** has served the children and families of our neighborhoods as a unique oasis for personal and community empowerment. Whether it's after-school tutoring for kids or senior services for the elderly, BTWCSC has a long history of meeting the needs of residents of Lower Pacific Heights, the Western Addition in particular, and neighborhoods throughout the City of San Francisco.

With a proud history to build on, we're now looking toward the future. Our existing facility at Presidio Avenue and Sutter Street is cramped, dilapidated, and functionally obsolete, and it's going to take change to meet the ongoing needs of San Francisco youth, families and seniors. We are committed to rebuilding our community center and reshaping our programs to keep pace with the changing requirements of the communities that we serve.

"Now more than ever, it is imperative that the Booker T. Washington Center provide essential care and services for the people of the Western Addition and neighboring communities."

—*Former Mayor Willie Brown*

"Booker T. Washington Community Service Center is a beacon of hope and a social service safety net for residents who mirror the diversity of the city."

— *Doreen Der-McLeod, Executive Director, Cameron House*

"The people at Booker T. have helped me to help myself. I always know they have my back and are looking out for me."

– Mercedes West, emancipated foster youth

The mission of the Booker T. Washington Community Service Center remains constant even as our programs and facilities evolve to meet the changing needs of San Francisco. We provide pragmatic assistance and resources to the people in our community who need them most, including programs such as:

- After school tutoring and mentoring;
- Sports, recreation, music and media activities;
- Foster youth support and advocacy;
- Health and nutrition assistance;
- Senior activities;
- Field trips and summer programs;
- Arts and crafts classes; and
- Computer and career training.

Booker T. Washington Community Service Center is more than just a local neighborhood center. It is the cornerstone of a commitment made long ago to turn concepts of personal responsibility, social justice, dignity and compassion into a reality for San Francisco's young people, families and seniors.

"We love the Booker T. Washington Center! The A+ Computer Training will help us find better jobs."

– Ming and Ana, Booker T. Washington clients

"The Booker T. Washington Community Service Center is an established and vital fixture in District 2. I will continue to support all the great work it does for families and children."

—Supervisor Michela Alioto-Pier

Booker T. Washington Community Service Center is working to create a neighborhood sanctuary where people can live and enrich themselves at one special place. Our new home will replace our existing obsolete facility and enable us to upgrade client services and provide new housing at all income levels in a safe, family-friendly environment. *The core components of this proposed mixed-use project include:*

- A new community center and meeting space with upgraded facilities that are fully ADA compliant;

- A new high quality building that is respectful of the distinct architectural character of the surrounding neighborhood;

- Approximately 72 new homes, many of which will be made affordable for working San Francisco families and emancipated foster youth;

- A modern, neighborhood-serving gymnasium;

- A new playground and open space area; and

- Extended neighborhood childcare.

We need your support to make this happen! Please fill out one of the attached supporter cards to help make this vision a reality, and mail it in today.

If you have any questions about the BTWCSC mixed-use project, please email btwcsc@afevans.com.

"I can't think of a better project than the BTWCSC mixed-use project. It will be a real haven that offers mixed income housing, social services and recreation in one wonderful location. Bravo!"

– Kelly Dearman, affordable housing advocate

YES! I support BTWCSC's commitment to sustain its tradition of hope and care!

The proposed mixed-use project is well planned and will provide needed community services and housing in a secure, family-friendly environment. I urge the City of San Francisco to help make this vision a reality by approving the application for 800 Presidio Avenue.

Printed Name: **Signature:**

Organization:*

Address:

City: **State:**   **Zip Code:**

Phone: **Email:**

*For identification only

As a member of the Booker T. Washington Team, I will: (Check all that apply)

) **Lend my name to the list of supporters**

) **Send a letter or email urging approval of the project**

) **Attend a public hearing on the project**

PS: It makes a difference when City Hall hears from you. Please send a message by signing and sending this postcard today!

**City of San Francisco
c/o Booker T. Washington Community Service Center
Community Outreach Coalition
655 Montgomery Street #1700
San Francisco, CA 94111**

ANTI-NIMBY TOOLS

By Mike Rawson
California Affordable Housing Law Project

Historically, local governments have had broad discretion in the approval of residential development. However, local parochialism and prejudices often result in policies and practices that exclude the development of affordable housing, thereby exacerbating patterns of racial and economic segregation and creating a substantial imbalance of jobs and housing. In recent years, several laws have been adopted which place important limitations and obligations on local decision-makers in the area of affordable housing.

Housing Element Law (Gov. Code Sec. 65580 et seq.) Every city and county must adopt a housing element as part of its general plan. Most importantly, a housing element must identify sites appropriate for affordable housing and address governmental constraints to development. If the locality fails to adopt a housing element or adopts one that is inadequate, a court can order the locality to halt development until an adequate element is adopted or order approval of specific affordable housing developments.

In most cases, the identification of sites must include sites zoned for multi-family development by right. The court in *Hoffmaster v. City of San Diego* (55 Cal. App. 4th 1098 (1997), said that to qualify, a site must be specifically identified and available for immediate development without restrictive zoning burdens. See our Housing Element Fact Sheet for additional detail.

"Anti-Nimby" Law (Gov. Code Sec. 65589.5) Even in communities with valid housing elements, local governments often deny approval of good developments. Misinformation and prejudice generate fierce opposition to proposed projects. Recognizing this, state law prohibits a local agency from disapproving a low income housing development, or imposing conditions that make the development infeasible, unless it finds that one of six narrow conditions exist. Of the six, three are of most import: 1) the project would have an unavoidable impact on health and safety which cannot be mitigated; 2) the neighborhood already has a disproportionately high number of low income families; or 3) the project is inconsistent with the general plan and the housing element is in compliance with state law. SB 948 (Alarcon) (Chapter 968, Statues of 1999): (1) narrowed the definition of what constitutes an impact on health and safety; (2) applied the law to middle income housing; and (3) clarified the authority of courts to order localities to approve illegally denied projects. AB 369 (Dutra) (Chapter 237, Statutes of 2001) provided attorneys fees and costs against localities that violate the law. SB 619 (Ducheny) (Chapter 793,   Statutes of 2003) expanded the law to mixed use developments.

Prohibition of Discrimination Against Affordable Housing (Gov. Code Sec. 65008). This statute forbids discrimination against affordable housing developments, developers or potential residents by local agencies when carrying out their planning and zoning powers. Agencies are prohibited not only from exercising bias based on race, sex, age or religion, but from discriminating against developments because the development is subsidized or occupancy will include low or moderate income persons. Local governments may not impose different requirements on affordable developments than those imposed on non-assisted projects. Just as with the other state and federal fair housing laws (see below), this law applies even if the discrimination is not intentional. It applies to any land use action that has a disproportionate impact on assisted developments or the potential minority or low income occupants. SB 619 (Ducheny) (Chapter 793, Statutes of 2003) specifically prohibited discrimination against multifamily housing.

California and Federal Fair Housing Laws. These laws prohibit discrimination by local government and individuals based on race, color, religion, sex, familial status, marital status, national origin, ancestry or mental or physical disability. The California Fair Employment and Housing Act (Gov. Code Sec. 12900 et seq.) expressly prohibits discrimination through public or private land us practices and decisions that make housing opportunities unavailable. Similarly, the federal Fair Housing Act (42 U.S.C. Sec. 3601 et seq., or "Title VIII") has been held to prohibit public and private land use practices and decisions that have a disparate impact on the protected groups. The federal Fair Housing Amendments Act of 1988 requires local

100

governments considering housing projects for the disabled to make reasonable accommodations in rules, policies and practices if necessary to afford disabled persons equal opportunity for housing (42 U.S.C. Sec. 3604(f)(3)(B)).

Water/Sewer Service (Gov. Code Sec. 65589.7). Local water and sewer districts must grant priority for service hook-ups to projects that help meet the community's fair share housing need.

Density Bonus Law (Gov. Code Sec. 65915-16). Local governments must grant projects with a prescribed minimum percentage of affordable units a 25% increase in density and at least one incentive. An incentive can include a reduction in development, parking or design standards, modification of zoning requirements or direct financial aid. See our Fact Sheet on Density Bonuses for additional detail on new laws.

Permit Streamlining Act (Gov. Code Sec. 65920 et seq.) This law requires localities to publish a description of the information that project applicants must file and mandates a time-line for making a decision on the application. If the local government fails to act within the prescribed time limits, a development project is "deemed" approved. SB 948 (Alarcon) (Chapter 968, Statutes of 1999) reduced the time period for action on affordable housing applications from 180 days to 90 days.

Bonds/Attorney Fees in NIMBY Lawsuits. A court may require persons suing to halt affordable housing projects to post a bond (Code of Civil Procedure Sec. 529.2) and to pay attorney fees (Gov. code Sec. 65914). SB 619 (Ducheny)(Chapter 793, Statutes of 2003) permits nonprofit project proponents to intervene and collect attorneys fees in such suits.

CEQA Exemption. In 2002, the Legislature replaced Pub Res Code Sec. 21080.14 (100 unit exemption for affordable housing in urbanized areas, provided the site is less that 5 acres, not a wildlife habitat and is assessed for toxic contaminants, etc) and Section 21080.10 (45 unit exemption for farm worker housing) with a new "infill" exemption that also combines the former exemptions. SB 1925 (Sher) enacted Pub Res Code Sections 21159.22-25, and provided additional qualifications for those exemptions in Sections 21159.20 and 21159.21. Importantly, SB 1925 eliminated the discretion of localities to deny the exemption based on "unusual circumstances".

Multi-Family Moratoria. In order to circumvent Anti-Nimby law, some communities have adopted moratoria on all multifamily housing. SB 1098 (Alarcon), (Chapter 939, Statutes of 2001) amended Gov Code Sec 65858 to prohibit the extension of a multifamily moratorium beyond 45 days unless the locality makes written findings that the development of multifamily housing would have a specific, adverse impact upon public health or safety.

Conditional Use Permits. Most commercial, industrial and single-family residential uses do not require a conditional use permit, but many communities require a conditional us permit for multifamily housing. SB 619 (Ducheny)(Chapter 793, Statutes of 2003) prohibits conditional use permits on multifamily housing with 100 or fewer units, a density of at least 12 units/acre, located on an infill site in an urbanized area, consistent with the zoning and general plan, and has a neg dec or mitigated neg dec.

Next Steps: SB 744 (Dunn), which is pending action in the Legislature, permits applicants to appeal to a state body a decision by a city or county to deny or condition an affordable housing developments in a way that makes it financially infeasible.

STRATEGIES FOR WORKING WITH A CONSOLIDATED PLAN

Ask the Planning Dept. for a copy of the local Consolidated Plan. The Consolidated Plan is required by HUD of all cities and towns that receive CDBG funding and describes a community's needs, resources, priorities, and proposed activities to be undertaken with certain HUD funding. The Plan, which must include opportunities for resident input and is updated annually, typically describes affordable housing needs and goals.

See how your project fits into the Plan and whether it can be seen as furthering the city/town's stated goals. If it does, this may make you eligible for additional assistance with both private and public funders. It can also be a useful way to get the support of elected officials

If you want to site it in a particular neighborhood, become involved in local community development efforts or neighborhood association meetings (if they exist).

o Go to meetings regularly and be an active participant, helping to shape neighborhood strategy. Listen to what people are saying are neighborhood priorities. Avoid going after a site clearly being targeted for another purpose without first convincing key city or neighborhood leaders that it is a good idea.

If you want to do rental housing but the community's priority is home-ownership, a possible approach might include:

o *Look at the existing building stock*. If it is primarily two to three family homes that means that for every owner-occupied unit there is one or more rental units in the same house. Team up with a local housing developer to renovate several of these homes for sale to low and moderate-income homebuyers.

Corporation for Supportive Housing Southern New England Program Strategies for Working with a Consolidated Plan
October 2006 1

Secure a rental subsidy for one rental unit in each house, and enter into an agreement with a willing purchaser of the home that they will receive the subsidy in exchange for leasing the unit to one of your clients, with your agreement to provide support services to the client and be "on-call" in the event of any problems. Link up with the housing group to provide training to the homebuyer on the rights and responsibilities of being a landlord and on the special needs of clients.

o *Team up with other affordable housing developers* to have a portion of the units within a larger single-site or scattered-site development set-aside for supportive housing clients.

If the community's priority is the rehabilitation of existing blighted buildings.

o *Renovate a blighted landmark building that is seen as an eyesore*. It may be expensive, but can engender significant community support.

o *Do a scattered site approach and p*urchase and renovate (either directly or in partnership with a housing group) a number of 1-4 family homes in the neighborhood. If your goal is to serve single individuals and existing units are too large, consider shared units.

If the community's priority is jobs.

o *Design an employment-centered service strategy*, regardless of where the housing is sited, with the goal of moving clients toward work and self-sufficiency, and incorporate (through direct provision or linkage to other agencies) strong supports related to job placement, readiness, education and job retention.

Source: *Piecing it all Together in your Community: Playing the Housing Game*; Learning to Use HUD's Consolidated Plan to Expand Housing Opportunities for People with Disabilities, Prepared by the Technical Assistance Collaborative, Inc, Boston, MA; December 1999. Also, Corporation for Supportive Housing Pilots Initiative Handbook

_____
Corporation for Supportive Housing Southern New England Program
Strategies for Working with a Consolidated Plan
October 2006

103

ZONING 101

Note: *Any group that requires zoning relief for their project is often best served by hiring an attorney familiar with both the regulators and the regulations. This document serves to provide general information only.*

What is the role of the Zoning Board? How does it differ from the Planning Board?
The Zoning Board is responsible for regulating the use of land and buildings through the interpretation and enforcement of the zoning regulation adopted by the town or city. Every municipality has its own regulations which often are available online.

These regulations typically govern the:
- Height, number of stories and size of buildings
- Percentage of the area of the lot that may be occupied
- Density of units in given neighborhoods
- Allowable proximity to other buildings and streets
- Location and permitted use of buildings, structures and land for trade, industry, residences and other purposes
- Proximity to other structures as well as to streets and sidewalks.
- Appearance of advertising signs and billboards

and are designed to:
- Encourage the most appropriate use of land and preserve the character, aesthetics and value of a neighborhood.
- Provide for traffic and pedestrian access and prevent traffic hazards, including requiring adequate off-street parking and installation of sidewalks.
- Promote public safety, ensuring that all buildings, structures, uses, equipment, or material shall be accessible for fire and for police protection.

_____

Corporation for Supportive Housing Southern New England Program
Zoning 101
October 2006 1

- Provide adequate light and air
- Facilitate adequate provision of transportation, water, sewerage, schools, parks and other public requirements
- Protect historically, architecturally and culturally significant buildings and sites
- Encourage energy efficient patterns of development; and
- Protect the environment including the protection of water supplies and against erosion caused by wind, rain and poor drainage.

Among the cities in Los Angeles, there may be different names for the board that makes these decisions. Call the local City Clerk for further information.*

When do developers of property typically go before the zoning board?

When a developer or property owner needs to make a change that requires an exception of the established regulations, he or she will need to request a variance or special permit (For the purposes of this discussion, we will group all needed approvals under the category "zoning relief") This will occur in situations involving:
- Increase of density: This is perhaps the most common zoning relief request for affordable housing developers who are developing multi-household units in areas zoned for single-family dwellings.
- Change of use – For example, if a property to be developed for housing is in a commercial area rather than a residential one.
- Minimum setbacks – For example, if a property expansion will bring the structure beyond the minimum distance to the next property.
- Reduction in required off-street parking spaces – this is common in the development of affordable housing when there is not enough space for off-street parking and few residents own their own vehicles.
- Building height

In some cases, typically in larger developments involving new construction, a developer will need to submit a site plan for approval to a municipal board even when no variance or special permit is required. In this situation, the developer will also need to demonstrate that the project has taken safety, light, public health, aesthetics, character, etc, into consideration.

* This document was prepared by CSH for the state of Connecticut. "Los Angeles County" has been substituted in the text for this section.

_____

Corporation for Supportive Housing Southern New England Program
Zoning 101
October 2006 3

What are the threshold conditions an owner must meet in order to qualify for zoning relief?

- That the absence of this zoning relief will present an exceptional difficulty or unusual hardship—rather than a mere inconvenience—and without it, the owner would not be able to make reasonable use of his or her property. For example, in the case of a setback variance, he or she must show why the property could not be expanded in another direction.
- That the hardship is not of his or her own doing.
- That the hardship is peculiar to the property in question, in contrast with those of other properties in the same district (for example, the particular lot is very narrow or has an unusual condition (as opposed, for example, to being in a hilly neighborhood where every property has similar conditions).
- That the hardship is not of a financial nature. In general, most hardships will have financial implications, but zoning relief is usually not granted based on financial considerations alone.

What are the typical arguments used to petition for zoning relief?

Depending on the nature of the request, an owner may want to argue that:
- The project will not have a negative effect on public health or safety – and in fact will improve the community and serve a demonstrated need. (See How to Address Common Community Concerns)
- The project will not reduce property values or change the character of the neighborhood – and in fact will enhance it. (See How to Address Common Community Concerns)
- The property has significant public support – and this is where testimony, letters, etc. are important. (See Getting Local Government on Your Side)
- That the property owner or developer is (or will be) a member of the community and has its interests at heart and intends to remain actively involved with property (i.e. a project sponsor will want to emphasize that they will ensure that the property will be well maintained and that tenant needs will be responsibly addressed)
- That traffic to and from the property will not increase congestion (using studies, if necessary) or that drainage will not be affected, etc. The developer needs to be thorough to cover all health and safety bases

What are some successful negotiation tactics?

The most common tactic for a developer seeking a multi-family building in an area zoned for fewer households is to agree to a reduction of density. Some affordable housing developers have agreed to reduce density, and in return, the town has agreed to provide an alternative town-owned site for the remaining units.

What are some common tactics used by affordable housing opponents to deny or advocate for the denial of zoning relief/approval?

Most opponents of affordable/supportive housing are sophisticated enough to know that rather than risk being sued for discrimination, the most effective way to oppose the project is to frame it in terms of public health and safety: For example, that the additional turn-off will be hazardous to pedestrians, that the sewer system is inadequate to handle the increased load, or that the density will prevent access by emergency vehicles. Less powerful but equally common arguments are that the public schools will be overburdened and the character of the neighborhood will be adversely changed.

Perhaps the most common strategy employed by those who oppose a project—especially those board members who are worried about controversy but are also reluctant to outwardly deny a project—is to insist on extensive zoning and land use reviews or additional studies that result in months of delay. Many affordable housing projects stop being viable when time becomes a factor: The group loses momentum, the financing falls through or the carrying costs become excessive. Knowing this, some groups opt to assert their legal rights if they suspect illegal discrimination is at play.

Unlike the zoning process, which often has no deadline by which a decision must be made, the courts are in a position to grant immediate relief where it is necessary. But the costs of litigation can be high, not just in terms of hiring attorneys, but also because of the potential impact on future relations with elected officials and neighbors. For this reason, many owners stick it out – or start looking for another site. Court processes can also take a very long time to be resolved, especially if one of the parties can afford the substantial attorney's fees involved.

FAIR HOUSING REASONABLE ACCOMMODATION

Fair Housing Reasonable Accommodation:

A Guide to Assist Developers and Providers of Housing for People with Disabilities in California

Mental Health Advocacy Services, Inc.

108

Mental Health Advocacy Services, Inc.

Mental Health Advocacy Services, Inc. (MHAS) is a private, non-profit public interest law office that has provided legal services to people with mental and developmental disabilities since 1977. In addition to assisting individual clients, MHAS serves as a resource to the community by providing training and technical assistance to consumers, advocates, and attorneys, as well as public and private agencies.

One of MHAS' priorities is to increase access to housing for people with disabilities. A primary focus of MHAS' fair housing advocacy is helping non-profit developers overcome barriers to the development of critically needed affordable housing. MHAS has worked with affordable housing developers in almost every phase of the project approval process, from attending meetings with planning officials to developing fair housing educational materials to address neighborhood opposition.

This guide was developed as part of MHAS' 2004-05 "Getting It Built" project, which was funded by a grant from the U.S. Department of Housing & Urban Development's Fair Housing Initiatives Program. The project has provided fair housing training and technical assistance to affordable housing developers and other organizations involved in the development of housing for people with disabilities in seven southern California counties: Los Angeles, Orange, Riverside, San Diego, Santa Barbara, Ventura and Fresno Counties.

Mental Health Advocacy Services, Inc.
3255 Wilshire Blvd., Suite 902
Los Angeles, CA 90010
(213) 389-2077
www.mhas-la.org

February 2005

Table of Contents

Introduction

Despite over a decade of progress in fighting unlawful discrimination, today affordable housing developers face many challenges in getting housing for people with disabilities built. All too often, one of the most significant challenges is overcoming local land use and zoning regulations and practices that restrict or even prohibit the development and siting of housing for people with disabilities. Likewise, housing providers who wish to use existing housing in residential zones that is appropriate for people with disabilities are also frequently restricted by local regulations that impede such a use.

This guide has been prepared for those who develop or provide affordable housing for people with disabilities to explain how fair housing laws can be used to overcome restrictive local land use and zoning regulations. Fair housing laws, particularly the reasonable accommodation provisions, have often been overlooked by developers and providers as a way of remedying obstacles in the provision of housing. First, the guide provides an overview of fair housing and, more specifically, how housing developers and providers can use the reasonable accommodation provisions of the law in getting their housing built. Next, the guide explains how housing developers and providers should make requests for reasonable accommodations and the legal basis by which local governments should evaluate those requests. Lastly, the guide offers some examples of the reasonable accommodations that housing developers and provides may need and, based on case law, have a likelihood of obtaining from local government.

Fair Housing Laws Protect the Development and Use of Housing for People with Disabilities

The Law Prohibits Discriminatory Land Use and Zoning Regulations that Deny Housing Opportunities to People with Disabilities

The federal **Fair Housing Amendments Act of 1988** (the Act) makes it illegal to discriminate in housing against individuals based on their race, color, religion, gender, national origin, familial status (families with children) or disability.[1] The Act prohibits local governments from making housing opportunities unavailable to people with disabilities through discriminatory land use and zoning rules, policies, practices and procedures. The legislative history of the Act recognizes that zoning code provisions have discriminated against people with disabilities by limiting opportunities to live in the community in congregate or group living arrangements.

While state and local governments have authority to protect safety and health and to regulate use of land, that authority has sometimes been used to restrict the ability of individuals to live in communities. This has been accomplished by such means as the enactment of congregate living arrangements among non-related persons with disabilities. Since these requirements are not imposed on families and groups of similar size of other unrelated people, these requirements have the effect of discriminating against people with disabilities.[2]

(Emphasis added.)

> *A person with disability is someone who has a physical or mental impairment that limits a major life activity; has a record of such impairment; or is regarded as having such an impairment. People in recovery for substance abuse are also protected by fair housing laws; however, current users of illegal controlled substances are not protected by fair housing laws unless[3] they have a separate disability.[4]*

California's own fair housing statute, the **Fair Employment and Housing Act** (FEHA), prohibits discrimination on the same bases as federal law and also four additional bases; marital status, ancestry, sexual orientation and source of income.[5] The FEHA explicitly prohibits discriminatory "public or private land use practices, decisions and authorizations" including but not limited to , "zoning laws, denials of permits, and other [land use] actions… that make housing opportunities unavailable" to people with disabilities.[6] In enacting state fair housing laws, the California Legislature made the following findings, which recognized that land use practices have discriminated against group living arrangements for individuals with disabilites:

a. That public and private land use practices, decisions, and authorizations have restricted, in residentially zoned areas, that establishment and operation of group housing, and other uses.

b. That people with disabilites… are significantly more likely than other people to live with unrelated people in group husing.

c. That this act covers unlawful discriminatory restrictions against group housing for these people.[7]

The protections afforded people with disabilities also extend to those associated with them. Providers and developers of housing for people with disabilities have "standing" to file a court action alleging a violation under either federal or state fair housing laws or seek administrative relief from a federal agency (U.S. Department of Housing and Urban Development) or state agency (California Department of Fair Employment and Housing). The federal Fair Housing Amendments Act is much broader than other civil rights laws in that anyone suffering a "distinct and palpable injury" as the result of another's discriminatory act may sue. The injured party does not need to be the target of discrimination.[8] Thus, persons prevented from providing housing for individuals with disabilities because of a municipality's discriminatory acts have standing to sue under the Act or FEHA.[9]

Providing Discrimination under Fair Housing Laws

The federal Act and California's FEHA prohibit both intentional discrimination and zoning rules and regulations that have the effect of discriminating against housing for people with disabilities. This two-pronged basis is particularly important in relation to the development and use of housing for people with disabilities. In many instances, zoning regulations that are facially neutral have an adverse impact that results in the denial of housing opportunities to people with disabilities.

> **Intentional Discrimination-**
> *When a local government's land use or zoning code illegally singles out and treats housing for people with disabilities in an adverse manner, it is intentionally discriminating.*

When a local government's land use or zoning code illegally singles out and treats housing for people with disabilities in an adverse manner, it is intentionally discriminating. For example, a zoning provision that specifically prohibits the development of group homes for people with disabilities in single family residential zones is discriminatory on its face. To prove discriminatory intent, an individual need only show that disability was one of the factors considered by the city or county in making a land use or zoning decision.[10] Intentional discrimination may include actions or decision-making that is motivated by stereotypes, prejudices, unfounded fears or misperceptions about people with disabilities. Elected officials that adopt the discriminatory animus of neighborhoods or communities may face liability under fair housing laws. [11]

> **Discriminatory Effect –**
> *Discrimination may also be established by proving that a particular practice has a disparate impact on people with disabilities. Discriminatory intent need not be proven.*

Discrimination may also be established by proving that a particular practice has a disparate impact on people with disabilities. Discriminatory intent need not be proven. Effect, not motivation, is the touchstone.[12] For example, a zoning ordinance limiting the number of unrelated persons that may reside together in a single family residential zone through a restrictive definition of "family" without singling out any particular group, has the effect of discriminating against people with disabilities who frequently live together in congregate living arrangements.

Both of the forgoing examples of zoning regulations are illegal under fair housing laws because, either intentionally, or in effect, the restrictions deny housing opportunities to people with disabilities. While case law has established that a federal fair housing law violation may be proven through disparate impact, California law has codified that a victim may establish liability solely on the basis of discriminatory effect.[13] Land use and zoning regulations that are intentionally discriminatory must be eliminated from a local zoning code; a city or county may be liable if it continues to rely on provisions that violate fair housing laws. Local governments should also remove from their zoning code regulations that have an adverse or disparate impact on housing for people with disabilities. However, for developers and providers of housing for people with disabilities who need to mover forward on a particular project, often the most expedient method is to seek a reasonable accommodation. Nevertheless, an offer of reasonable accommodation will not cure an intentionally discriminatory zoning regulation. [14]

Developers and Providers of Housing for People with Disabilities May Seek Reasonable Accommodations To Overcome Land Use and Zoning Restrictions

Local Governments Must Make Reasonable Accommodations in Their Land Use and Zoning Regulations for Housing for People with Disabilities

In addition to not discriminating against people with disabilities, under both federal and state fair housing laws cities and counties have an <u>affirmative duty</u> to provide **reasonable accommodation** in land use and zoning rules, policies, practices and procedures where it may be necessary to provide individuals with disabilities equal opportunity in housing.[15] While fair housing laws intend that all people have equal access to housing, the law also recognizes that people with disabilities may need extra tools to achieve equality. Reasonable accommodation is one of the tools that is intended to further housing opportunities for people with disabilities.

For developers and providers of housing for people with disabilities who are often confronted with siting or use restrictions, reasonable accommodation provides a means of requesting from the local government flexibility in the application of land use and zoning regulations or, in some instances, even a waiver of certain restrictions or requirements because it is necessary to achieve equal access to housing.[16] Cities and counties are required to consider requests for accommodations related to housing for people with disabilities and provide the accommodation when it is determined to be "reasonable" based on fair housing laws and the case law interpreting the statutes.

Examples of reasonable accommodations involving land use, zoning and building requirements:

- *A special needs housing developer wishes to develop a 12-unit multi-family building in a low density commercial zone, bordered by a residential district, because the property is within close proximity to the mental health services which will be used by the residents with disabilities. The developer seeks a waiver of the prohibition against residential uses in commercial zones.*
- *A housing provider or developer seeks from its local government waiver of a residential fence height restriction so that many of the residents of the home, who because of their mental disabilities fear unprotected spaces, may use the backyard.*
- *A housing provider requests deviation from the code for installation of a wheelchair ramp at an existing home that will be used by people with disabilities.*

The Reasonable Accommodation Analysis: How Requests Will Be Evaluated

A statutorily based four-part analysis is used in evaluating requests for reasonable accommodation related to land use and zoning matters and is incorporated in those reasonable accommodation procedures which have been adopted thus far by California jurisdictions. This analysis gives great weight to furthering the housing needs of people with disabilities and also considers the impact or effect of providing the requested accommodation on the City and its overall zoning scheme. Developers and providers of housing for people with disabilities must be ready to address each element of the following four-part analysis.

- The housing that is the subject of the request for reasonable accommodation is for people with disabilities as defined in federal or state fair housing laws;

- The reasonable accommodation requested is necessary to make specific housing available to people with disabilities who are protected under fair housing laws;

- The requested accommodation will not impose an undue financial or administrative burden on the local government; and

- The requested accommodation will not result in a fundamental alteration in the local zoning code.

Initially, developers and providers of housing for people with disabilities must establish that the housing is specifically for people with disabilities. In most instances, this threshold requirement can be met by describing generally the use of the dwelling, such as licensed residential care facility, home for transitional age youth with disabilities, or sober living home for those in recovery. An applicant seeking a reasonable accommodation is not required to identify the nature or severity of the disabilities of the residents.[17] In California, housing developers and providers should rely on the FEHA definition of "disability" because it is more inclusive than the federal Act definition. [18]

Second, the accommodation sought must be <u>necessary</u> to make the specific housing available to people with disabilities. To establish that the accommodation is necessary, it must be shown that, without the accommodation, people with disabilities will be denied the equal opportunity to live in a residential neighborhood. [19] In other words, "but for the accommodation," the housing would not be available and a housing opportunity for people with disabilities would be denied. Determining whether an accommodation is necessary entails a "fact specific inquiry regarding each such request," meaning that each request is

evaluated based on the particular set of facts. [20]   For example, housing developers and providers have obtained accommodations to increase the

> *Housing developers and providers have obtained accommodations to increase the number of residents based on economic necessity, but a court would require very specific evidence that the number of residents proposed for the housing was necessary to make the project economically viable.*

number of residents based on economic necessity but, as discussed in the Examples section (see page 11), a court would require very specific evidence that the number of residents proposed for the housing was necessary to make the project economically viable.

Once a developer or housing provider establishes protection under the law and that the requested accommodation is necessary, then the accommodation must be provided unless the local government presents persuasive evidence that doing so would either create an undue burden or result in a fundamental alteration of the zoning code. Establishing either of these burdens makes the accommodation "unreasonable" and is the basis for denying the requested accommodation. As for "undue burden," in the land use and zoning context many requests for accommodation will be requests to modify or waive a regulation or procedure. It costs a jurisdiction nothing to a waive a rule, meaning that "…the accommodation amounts to nothing more than a request for non-enforcement of a rule." In those instances, a city would not be likely to demonstrate undue burden. [21]

In addition to not imposing an undue financial or administrative burden, a reasonable accommodation must also not result in the fundamental alteration in the nature of a program. [22] In the land use and zoning context, "fundamental alteration in the nature of the program" means an alteration so far-reaching that it would change the essential zoning scheme of a municipality. The courts have generally held that the granting of an exception for one dwelling that provides housing for people with disabilities does not change the residential character of a neighborhood and therefore does not result in a fundamental alteration in the nature of the program. [23]

In those instances in which a local government intends to deny a requested accommodation because it would be a burden or result in a fundamental alteration, it is appropriate for the jurisdiction to engage in an "interactive process" (a requisite in employment discrimination cases) and propose an alternative accommodation that could achieve a comparable result. While the case law is unclear as to whether a local government is required to do so, in practice local governments often negotiate an alternative accommodation. [24]

Developers and Providers Should Seek Reasonable Accommodations Instead of Using Existing Entitlement Procedures

Today, many local governments have yet to adopt fair housing reasonable accommodation procedures, and they continue to instruct developers and housing providers that exceptions to land use or zoning regulations are provided through a conditional use permit or variance process. There are a number of reasons why developers and providers of housing for people with disabilities should not use existing entitlement procedures when they need to deviate from land use and zoning regulations.

The first reason that existing entitlement procedures should be rejected is that both the conditional use permit and variance processes involve a public notice and hearing which often creates a forum for neighborhood opposition that may unduly influence decision-makers. And, a number of courts have held that a fair housing reasonable accommodation is not provided by requiring a developer or provider of housing for people with disabilities to submit a conditional use permit or variance process. Going through such a process has a discriminatory effect because it requires a public notice and hearing that can stigmatize prospective residents with disabilities. [25] The courts have also recognized that the variance process is lengthy, costly and burdensome. [26]

Developers and providers of housing for people with disabilities know well that the public nature of the conditional use permit and variance process can be a catalyst for organizing opposition, and NIMBY sentiments can delay or even stop the development or siting of housing fro people with disabilities. Strong opposition can persuade an elected official to vote against a housing project or lead a developer or housing provider to abandon a project because of the hostility that future residents with disabilities will have to face in the neighborhood. A reasonable accommodation procedure is unlikely to have the degree of public notification and hearing process that is found in virtually all entitlement procedure.

The second reason that existing conditional use permit and variance processes should be avoided is that both entitlement procedures apply the wrong standard in determining whether to grant or deny the requested relief. Issuance of a conditional use permit requires a determination that the proposed use will not be materially detrimental to the character of the immediate neighborhood and that it will be in harmony with the various elements and objectives of the local government's General Plan. Equally problematic from a fair housing perspective is that a local government may impose any conditions on the use of the property that are deemed necessary to ensure this compatibility.

To obtain a variance, an applicant must make a showing of "hardship" based on certain unique physical characteristics of the subject property. In contrast, a request for reasonable accommodation must establish that relief from the zoning code is necessary for individuals with disabilities to have equal access to use and enjoy housing. A jurisdiction cannot comply with its duty to provide reasonable accommodation if it applies a standard that looks at the physical characteristics of the property instead of considering need based on the disabilities of the residents of the housing.

In a fair housing reasonable accommodation procedure, once an applicant establishes that the accommodation is necessary to overcome barriers related to disability, the request should be granted unless a jurisdiction can demonstrate that the accommodation will impose an undue financial or administrative burden on the jurisdiction or that the accommodation will result in a fundamental alteration of the local zoning code. These two factors require that the city or county demonstrate that the requested accommodation is "unreasonable." In the variance process, the focus is shifted away from the needs of people with disabilities. The local government will determine whether granting the variance will be "materially detrimental to the public welfare, or injurious to the property or improvements in the same zone or vicinity in which the property is located." In a reasonable accommodation procedure, the possible adverse impacts in the surrounding areas cannot defeat the need of the people with disabilities to have access to housing.

> *In May 2001, California's Attorney General, Bill Lockyer, sent a letter to every California city and county, encouraging them to amend their zoning ordinances to add a procedure for handling requests for reasonable accommodations made pursuant to state and federal fair housing laws.*

The importance of local governments adopting reasonable accommodation procedures for local land use and zoning regulations received statewide attention in May 2001 from California's Attorney General, bill Lockyer. Mr. Lockyer sent a letter to the mayor of every California city and the president of every county board of supervisors, encouraging them to amend their zoning ordinances to add a procedure of handling requests for reasonable accommodations made pursuant to state and federal fair housing laws. The Attorney General counsels against exclusive reliance on existing variance or conditional use permit procedures for handling requests for reasonable accommodations because they do not use fair housing legal standards, and, furthermore, local jurisdictions have an affirmative duty to provide reasonable accommodation. The Attorney General also recognizes that community opposition is invited through a conditional use permit process, and such

opposition is often grounded in stereotypical assumptions about people with disabilities and unfounded concerns about the impact of such housing on surrounding property values. A copy of the Attorney General's letter is included at the end of this guide (see page 17).

How to Make a Request for Reasonable Accommodation if the Local Government Does Not Have a Written Procedure for Doing So

Local governments have an affirmative duty to consider requests for reasonable accommodation regardless of whether they have a written procedure in place for making such a request. Initially, an inquiry should be made to the local government's planning department to determine whether there is an established procedure for seeking an accommodation. If there is not a written procedure, then the request for reasonable accommodation should be made in writing. A developer or provider of housing for people with disabilities requesting a reasonable accommodation must be prepared to address each of the points of analysis set for above.

It is highly recommended that, should a local government assert that a developer or provider must make a request for reasonable accommodation within an entitlement process, an attorney knowledgeable about fair housing laws should be consulted to protect both the developer's and resident's rights.

While directly requesting a reasonable accommodation is the recommended approach, some local governments may assert that the request for reasonable accommodation will be considered only within the established entitlement procedure or only after a determination has been made on the variance or conditional use permit. Although fair housing advocates and attorneys do not believe this is the legally correct position to take, the case law is unsettled in this area. Therefore, it is highly recommended that, should a local government assert that a developer or provider must make a request for reasonable accommodation within an entitlement process, an attorney knowledgeable about fair housing laws should be consulted to protect both the developer's and resident's rights.

<u>Examples of reasonable Accommodations in Land Use and Zoning</u>

Many developers and providers of housing for people with disabilities will want to request an accommodation to overcome local zoning code provisions that restrict the siting and use of housing for people with disabilities in low density residential zones based on the number of residents in the home. There are also many other accommodations that may be appropriate including, for example, a reduction in the number of parking spaces required for a development, or waiver of regulations related to the physical structure of a dwelling or yard area.

The following examples represent some of the more likely accommodations that developers and providers may need for housing for people with disabilities. This is not an exhaustive list; many other exceptions to land use and zoning regulations may be needed depending on the particular housing. The case authority provided fro many of the examples involves variances or conditional use permits because no reasonable accommodation procedure existed in the jurisdiction at the time the matter was litigated. In some instances, housing providers requested a reasonable accommodation within a variance process.

Increasing the Number of Residents in Housing for People with Disabilities

Both developers and providers of housing for people with disabilities may need a reasonable accommodation from a local government to site or use housing for people with disabilities in a single family or other low density residential zone. Despite federal and state fair housing laws and California case law, some local governments continue to use an illegal definition of "family" that distinguishes between related and unrelated individuals and limits the number of unrelated persons that may reside together to constitute a "family". While not singling out people with disabilities on its face, such a definition may have disparate impact on housing for people with disabilities because it effectively restricts the number of unrelated persons with disabilities who may reside together in single family and other low density residential zones. [27]

The case law supports granting reasonable accommodation to overcome a restrictive definition of "family" so that people with disabilities can live together in a group home setting in a single family or other low density residential zone. [28] A developer or provider must establish that, without the accommodation, people with disabilities will be denied equal opportunity to live in a residential neighborhood. [29] The courts have held that a reasonable accommodation that results in an increase in the number of residents at a home does not result in an undue burden on the local government, nor does it undermine the residential character of the neighborhood or the local zoning scheme. [30]

The courts have granted increases in the number of residents at a home or permitted a home to exceed the number of unrelated persons living together in single family residential zones based on "economic necessity." [31] A housing provider must establish through budgets, including income and expense accountings, that his or her home must have a certain number of residents to be financially sound; "conclusory allegations without evidence are insufficient to support an increase in the number of residents based on economic viability."[32] The financial necessity argument has been unsuccessful where the increase requested is great (i.e., a doubling in the number of residents) or the housing already has a large number of residents.[33]

> *The courts have recognized that an increased number of people residing in a home may be necessary for therapeutic purposes.*

A housing developer or provider may also seek a reasonable accommodation to increase the number of residents for therapeutic purposes. The courts have recognized that, for therapeutic purposes, an increased number of people residing in a home may be necessary for a congregate or group living arrangement to effectively assist with disabilities. [34]

Extending the Footprint of the Housing

A reasonable accommodation request may seek waiver of land use or zoning restrictions that, for aesthetic reason or to preserve homeowners' views, impose a limit on the footprint of a dwelling in relation to lot size. A housing developer or provider may need to increase the footprint of a dwelling to make the interior accessible to wheelchair users who will reside at the premises. Whether the accommodation will be granted depends on the particular facts of the case analyzed under the factors set forth above.

Relief From Side Yard Requirements

A developer may seek changes related to side yard and backyard zoning code requirements or substitution of side yard footage for rear yard footage and it is unlikely to be considered either an undue burden of fundamental alteration.[35] This type of accommodation may be necessary to install ramps to meet the needs of persons with disabilities who use wheelchairs.

Fence Height Restrictions

Housing providers have been granted exceptions to fence height restrictions when greater privacy was necessary for a person with a disability to use ad enjoy the outdoors at a residence. In reviewing a request for reasonable accommodation related to a height restriction, the local government must

consider the need of the applicant but will also likely compare the requested fence height to other fences within the same block, as well as emergency access to the premises. A housing provider should be prepared to address these concerns when seeking a waiver of a fence height requirement.

Reduction in Parking Requirements

Housing developers and providers may seek a reduction in the number of parking spaces required at housing for people with disabilities based on the number of residents who drive or have cars. [36] While some local governments have standardized a procedure for seeking a parking reduction, it is recommended that those developing or providing housing for people with disabilities seek an exception through a reasonable accommodation request. Local governments have a statutory duty to provide a reasonable accommodation, and the applicant should not be required to submit to a public process.

Waiver of Concentration and Dispersal Rules

The concerns of neighbors based on stereotypes about people with disabilities are not a legal basis for defeating a request for accommodation of this type or any other.

Many local governments continue to have regulations that seek to disperse group homes to avoid "overconcentration" of housing for people with disabilities in particular neighborhoods. The State of California requires that licensed residential care facilities be separated by a distance of 300 feet. However, local governments may waive this distance requirement and permit these licensed homes to be in closer proximity. [37] While some states' spacing requirement rules have been struck down as illegal under fair housing laws because they imposed too great a separation (i.e., 1,500 feet), California's restriction has not been challenged. The courts have waived dispersal requirements as an accommodation where it was determined to be reasonable and not burdensome to a municipality. The concerns of neighbors based on stereotypes about people with disabilities are not a legal basis for defeating a request for accommodation of this type or any other. [38]

Reasonable Accommodation Under the Americans with Disabilities Act

Developers and providers of non-residential services, including mental health treatment programs or multi-service centers for people with disabilities, may obtain reasonable accommodations under the Americans with Disabilities Act. Fair housing laws provide protection to residential dwellings and generally do not cover non-residential programs.

Title II of the American with Disabilities Act (ADA) prohibits discrimination against individuals with disabilities by state and local governments, including the programs and services offered by a jurisdiction's housing development, planning and zoning agencies. [39]   The ADA has a broad scope and complements the federal Fair Housing Amendments Act in covering certain non-traditional housing such as government-operated homeless shelters as well as social services offices and treatment programs serving people with disabilities. [40] Title II protects against discriminatory land use and zoning decisions made by local governments against development of these uses. In addition, entities associated with people with disabilities are protected from discrimination under the ADA.

Title Ii of the ADA, like the Fair Housing Amendments Act, requires that local governments make reasonable modifications in "policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making modifications would fundamentally alter the nature of the service, program or activity." [41]   The ADA term "reasonable accommodation" is essentially synonymous with the fair housing phrase "reasonable accommodation." The requirement that cities and counties make reasonable modification under Title II of the ADA means that those who develop and provide non-residential treatment programs to people with disabilities, either associated with or independent of housing, may seek modifications under Title II of the ADA to ensure equal opportunity for participation in programs and activities.

Final Thoughts

This guide has been prepared to inform developers and providers of the fair housing laws that protect housing for people with disabilities and to encourage them to seek reasonable accommodations from their local governments when such accommodations are necessary to ensure equal access to housing. While this general guide provides an overview of the law, it is not a substitute for specific legal advice, which is often necessary when faced with obstacles to developing or providing housing for people with disabilities. We encourage those faced with housing development challenges to seek legal counsel knowledgeable of fair housing laws early on so that they may most effectively use the law to

overcome obstacles to developing or providing housing to people with disabilities.

ENDNOTES

[1] 42 U.S.C. §§ 3601 et seq.

[2] H.R. Rep. No 711, 100th Cong. 2d Sess. 24 (1988), reprinted in 1988 U.S.C.C.A.N. 2173, 2185

[3] Cal. Gov't. code §§ 12955.3. While the federal Act requires a "substantial impairment," California's more inclusive definition of disability is controlling in this state because federal law provides that nothing in the Act "shall be constructed to invalidate or limit any law of the State that grants, guarantees, or protects the same rights as are granted by [the Fair Housing Act]." 42 U.S.C. § 3615.

[4] 42 U.S.C.§ 3602(h); United States v. Southern Management Corp., 955 F.2d 914 (4th Cir. 1992); Oxford House v. Town of Babylon, 819 F. Supp. 1179 (E.D.N.Y. 1993).

[5] Cal. Gov't. Code §§12900 et seq.

[6] Cal. Gov't. Code § 129551(I).

[7] Stats. 1993 ch. 1277, § 18.

[8] San Pedro Hotel Co. v. City of Los Angeles, 159 F.3d 470 (9th Cir. 1998) (citing to Trafficante v. Metropolitan Life Ins. Co., 409 U.S. 205 (1972)).

[9] Epicenter of Steubenville v. City of Steubenville, 924 F. Supp. 845 (S.D. Ohio 1996); Judy B. v. Borough of Tioga, 889 F. Supp. 792 (M.D. Pa 1995).

[10] Oxford House-C v. City of St. Louis, 843 F. Supp. 1566 (E.D. Mo. 1994); Potomac Group Home Corp. v. Montgomery county, 823 F. Supp. 1285 (D.Md. 1993).

[11] People Helpers Foundation, Inc. v. City of Richmond, 789 F Supp. 725 (E.D. Va. 1992), 12 F.3d 1321 (4th Cir. 1993) (appeal as to damages); Assoc. Of Relatives & Friends of AIDS Patients v. Regs. & Permits Admin., 740 F. Supp. 95 (D.P.R. 1990).

[12] Seivert v. Mill Valley, 1992 U.S. Dist. LEXIS 14727, (N.D. Cal.) (citing to Metropolitan Housing Development Corp. v. Village of Arlington Heights, 558 F.2d 1283 (7th Cir. 1977)); See also Martin v. Constance, 843 F. Supp. 1321 (E.D. Mo. 1994).

[13] Cal. Gov't Code § 12955.8(b); Broadmoor San Clement Homeowners v. Nelson, 25 Cal. App. 4th 1 (4th Dist. 1994).

[14] The Children's Alliance v. City of Bellevue, 950 F. Supp. 1491 (W.D. Wash. 1997); Hovsons Inc. v. Township of Brick, 89 F. 3d 1096 (3rd Cir. 1996); Bangerter v. Orem City Corp., 46 F.3d 1491 (10th Cir. 1995).

[15] 42 U.S.C. § 3604(f)(3)(B); Cal. Gov't. Code § 12927(c)(1).

[16] Turning Point, Inc. v. Caldwell, 74 F.3d 941 (9th Cir. 1996).

[17] Under both federal and state fair housing laws it is unlawful to make an inquiry of a person with a disability or one associated with him as to the nature or severity of the disability. 24C.F.R.§ 100.202; Cal. Gov't. Code § 12955 (b).

[18] See Note 3, advising that the more inclusive definition of "disability" under FEHA should be relied upon.

[19] City of Edmonds v. Wash. State Bldg. Code Council, 18 F.3d 802 (9th Cir. 1994): Oconomowoc Residential Programs, Inc. v. City of Milwaukee, 300 F.3d 775 (7th Cir. 2002).

[20] U.S. v. California Mobile Home Park Management Co. (California Mobile Home I), 29 F.3d 1413 (9th Cir. 1994); Department of Justice Memorandum to National League of Cities (March 4, 1996).

[21] Geibler v. M&B Assocs., 343 F. Supp. 1143 (9th Cir. 2003) (rejecting the reasoning in Hemisphere Building Co. v. Village of Richton Park, 171 F.3d 437 (7th Cir. 1999) and Salute v. Strafford Greens Garden Apartments, 136 F.3d 293 (2nd Cir. 1998)).

[22] Southeastern Community College v. Davis, 442 U.S. 397, 99 S.Ct. 2361 (1979).

[23] Smith & Lee Assocs. v. City of Taylor, 102 F.3d 781 (6th Cir. 1996) (and related cases); Martin v. Constance, 843 F. Supp. 1321 (E.D. Mo. 1994); Oxford House v. Babylon, 819 F. Supp. 1179 (E.D.N.Y. 1993).

[24] Joint Statement of Department of Housing and Urban Development and Department of Justice: Reasonable Accommodation Under Fair Housing Laws (May 17, 2004) (available at www.hud.gov). At least one case, outside of the 9th Circuit, has held that the interactive process is not required in reasonable accommodation determinations. Lapid-Laurel v. Zoning Board of Adjustment of Town of Scotch Plains, 284 F.3d 442 (3rd Cir. 2002).

[25] Stewart McKinney Foundation v. Town of Fairfield, 790 F. Supp. 1197 (D.Conn. 1992); Horizon House Development Svcs. v. Township of Upper South Hampton, 804 F. Supp. 683 (E.D. Penn. 1992).

[26] Id.

[27] In City of Santa Barbara v. Adamson, 27 Cal. 3d 123, 164 Cal. Rptr. 539 (1980), which preceded the enactment of federal and state fair housing laws, the California Supreme Court held that based on constitutionally guaranteed privacy rights, zoning code definitions of "family" cannot distinguish between related and unrelated individuals nor limit the number of unrelated persons that may reside together to constitute a "family". Fair housing laws also hold that restrictive definitions of "family" have an adverse impact on housing for people with disabilities. See Oxford House Inc. v. Babylon, 819 F. Supp. 1179 (E.D.N.Y. 1993); Oxford House v. Township of Cherry Hill, 799 F.Supp 450 (D.N.J. 1992); United States v. Schuylkill Township, 1991 WL 117394 (E.D. Pa. 1990), reconsideration denied (E.D. Pa. 1991).

[28] Dr. Gertrude A. Barber Center v. Peters Township, 273 F. Supp.2d 643 (W.D. Penn. 2003).

[29] Oconomowoc Residential Programs, Inc. v. City of Milwaukee, 300 F.3d 775 (7th Cir. 2002).

[30] U.S. v. Village of Marshall, 787 F.Supp. 872 (W.D. Wis. 1992); Oxford House-Evergreen v. City of Plainfield, 769 F.Supp. 1329 (D.N.J. 1991).

[31] Geibeler v. M&B Assocs., *supra*, note 21, at 1152 (approving of Smith & Lee Assocs. v. City of Taylor, 102 F.3d 781 (6th Cir. 1995)); See also Edmonds, *supra*, note 19, at 803-806.

[32] Advocacy and Resource Center v. Town of Chazy, 62 F.Supp. 2d 686 (NYND 1999).

[33] Town & Country Adult Living v. Village/Town of Mt. Kisko, 2003 WL 21219794 (SDNY).

[34] Dr. Gertrude A. Barber Ctr., Inc. v. Peters Twp., 273 F. Supp. 2d 643 (W.D. Penn 2003); Lapid-Laurel v. Zoning Bd.. Of Adjustments, 284 F.3d 442 (3rd Cir. 2002); Brandt v. Village of Chebanse, 82 F.3d 172 (7th Cir. 1996).

[35] U.S. v. City of Philadelphia, 838 F. Supp. 223 (E.D. Penn. 1993).

[36] U.S. v. Commonwealth of Puerto Rico, 764 F. Supp. 220 (D.P.R. 1991).

[37] California Community Care Facilities Act, Health & Safety Code § 1520.25

[38] Citizens for a Balanced City v. Plymouth Congregational Church, 672 N.W. 2d 13 (Minn. 2003); United States v. Marshall, 787 F. Supp. 872 (W.D. Wis. 1992).

[39] 42 U.S.C. § 12101 et seg.

[40] Bay Area Addition Research and Treatment, Inc. v. City of Antioch, 179 F.3d 725 (9th Cir. 1999).

[41] 28 C.F.R. § 35.130(b)(7)

LETTER OF CALIFORNIA ATTORNEY GENERAL BILL LOCKYER
SUPPORTING REASONABLE ACCOMMODATION PROCEDURES

STATE OF CALIFORNIA

OFFICE OF THE ATTORNEY GENERAL

BILL LOCKYER
ATTORNEY GENERAL

May 15, 2001

The Honorable William Ted Hartz
Mayor of Adelanto
P.O. Box 10
Adelanto, CA 92301

RE: Adoption of A Reasonable Accommodation Procedure

Dear Mayor Hartz: .

      Both the federal Fair Housing Act ("FHA") and the California Fair Employment and Housing Act ("FEHA") impose an affirmative duty on local governments to make reasonable accommodations (*i.e.*, modifications or exceptions) in their zoning laws and other land use regulations and practices when such accommodations "may be necessary to afford" disabled persons "an equal opportunity to use and enjoy a dwelling." (42 U.S.C. § 3604(f)(3)(B); see also Gov. Code, §§ 12927(c)(1), 12955(l).) [1] Although this mandate has been in existence for some years now, it is our understanding that only two or three local jurisdictions in California provide a process specifically designed for people with disabilities and other eligible persons to utilize in making such requests. In my capacity as Attorney General of the State of California, I share responsibility for the enforcement of the FEHA's reasonable accommodations requirement with the Department of Fair Employment and Housing. Accordingly, I am writing to encourage your jurisdiction to adopt a procedure for handling such requests and to make its availability known within your community. [2]

---

    [1] Title II of the Americans with Disabilities Act (42 U.S.C. §§ 12131-65) and section 504 of the Rehabilitation Act (29 U.S.C. § 794) have also been found to apply to zoning ordinances and to require local jurisdictions to make reasonable accommodations in their requirements in certain circumstances. (See *Bay Area Addiction Research v. City of Antioch* (9th Cir. 1999) 179 F.3d 725; see also 28 C.F.R. § 35.130(b)(7) (1997).)

    [2] A similar appeal has been issued by the agencies responsible for enforcement of the FHA. (See Joint Statement of the Department of Justice and the Department of Housing and Urban Development, *Group Homes, Local Land Use and the Fair Housing Act* (Aug. 18, 1999), p. 4, at < http://www.bazelon.org/cpfha/cpfha.html> [as of February 27, 2001].)

1300 I STREET • SUITE 1740 • SACRAMENTO, CALIFORNIA • 95814 • 916-324-5437

It is becoming increasingly important that a process be made available for handling such requests that operates promptly and efficiently. A report issued in 1999 by the California Independent Living Council makes it abundantly clear that the need for accessible and affordable housing for Californians with disabilities will increase significantly over the course of the present decade.[3] The report's major findings include the following:

- Between 1999 and 2010, the number of Californians with some form of physical or psychological disability is expected to increase by at least 19 percent, from approximately 6.6 million to 7.8 million, and may rise as high as 11.2 million. The number with severe disabilities is expected to increase at approximately the same rate, from 3.1 million to 3.7 million, and may reach 6.3 million.[4] Further, most of this increase will likely be concentrated in California's nine largest counties.[5]

- If the percentages of this population who live in community settings—that is, in private homes or apartments (roughly 66.4 percent) and group homes (approximately 10.8 percent)—is to be maintained, there will have to be a substantial expansion in the stock of suitable housing in the next decade. The projected growth of this population translates into a need to accommodate an additional 800,000 to 3.1 million people with disabilities in affordable and accessible private residences or apartments and an additional 100,000 to 500,000 in group homes.

I recognize that many jurisdictions currently handle requests by people with disabilities for relief from the strict terms of their zoning ordinances pursuant to existing variance or conditional use permit procedures. I also recognize that several courts called upon to address the matter have concluded that requiring people with disabilities to utilize existing, non-

---

[3] See Tootelian & Gaedeke, *The Impact of Housing Availability, Accessibility, and Affordability On People With Disabilities* (April 1999) at <http://www.calsilc.org/housing.html> [as of February 27, 2001].

[4] The lower projections are based on the assumption that the percentage of California residents with disabilities will remain constant over time, at approximately 19 percent (*i.e.*, one in every five) overall, with about 9.2 percent having severe disabilities. The higher figures, reflecting adjustments for the aging of the state's population and the higher proportion of the elderly who are disabled, assume that these percentages will increase to around 28 percent (*i.e.*, one in every four) overall, with 16 percent having severe disabilities. (*Ibid.*)

[5] These are: Alameda, Contra Costa, Los Angeles, Orange, Riverside, Sacramento, San Bernardino, San Diego, and Santa Clara. (*Ibid.*)

discriminatory procedures such as these is not of itself a violation of the FHA.[6] Several considerations counsel against exclusive reliance on these alternative procedures, however.

Chief among these is the increased risk of wrongfully denying a disabled applicant's request for relief and incurring the consequent liability for monetary damages, penalties, attorneys' fees, and costs which violations of the state and federal fair housing laws often entail.[7] This risk exists because the criteria for determining whether to grant a variance or conditional use permit typically differ from those which govern the determination whether a requested accommodation is reasonable within the meaning of the fair housing laws.[8]

Thus, municipalities relying upon these alternative procedures have found themselves in the position of having refused to approve a project as a result of considerations which, while sufficient to justify the refusal under the criteria applicable to grant of a variance or conditional use permit, were insufficient to justify the denial when judged in light of the fair housing laws' reasonable accommodations mandate. (See, e.g., *Hovson's Inc. v. Township of Brick* (3rd Cir. 1996) 89 F.3d 1096 (township found to have violated the FHA's reasonable accommodation mandate in refusing to grant a conditional use permit to allow construction of a nursing home in a "Rural Residential—Adult Community Zone" despite the fact that the denial was sustained by the state courts under applicable zoning criteria); *Trovato v. City of Manchester, N.H.* (D.N.H. 1997) 992 F.Supp. 493 (city which denied disabled applicants permission to build a paved parking space in front of their home because of their failure to meet state law requirements for a variance found to have violated the FHA's reasonable accommodation mandate).

---

[6] See, *U.S. v. Village of Palatine, Ill.* (7th Cir. 1994) 37 F.3d 1230, 1234; *Oxford House, Inc. v. City of Virginia Beach* (E.D.Va. 1993) 825 F.Supp. 1251, 1262; see generally Annot. (1998) 148 A.L.R. Fed. 1, 115-121, and later cases (2000 pocket supp.) p. 4.)

[7] See 42 U.S.C. § 3604(f)(3)(B); Gov. Code, §§ 12987(a), 12989.3(f).

[8] Under the FHA, an accommodation is deemed "reasonable" so long as it does not impose "undue financial and administrative burdens" on the municipality or require a "fundamental alteration in the nature" of its zoning scheme. (See, e.g., *City of Edmonds v. Washington State Bldg. Code Council* (9th Cir. 1994) 18 F.3d 802, 806; *Turning Point, Inc. v. City of Caldwell* (9th Cir. 1996) 74 F.3d 941; *Hovsons, Inc. v. Township of Brick* (3rd Cir. 1996) 89 F.3d 1096, 1104; *Smith & Lee Associates, Inc. v. City of Taylor, Michigan* (6th Cir. 1996) 102 F.3d 781, 795; *Erdman v. City of Fort Atkinson* (7th Cir. 1996) 84 F.3d 960; *Shapiro v. Cadman Towers, Inc.* (2d Cir. 1995) 51 F.3d 328, 334; see also Gov. Code, § 12955.6 [explicitly declaring that the FEHA's housing discrimination provisions shall be construed to afford people with disabilities, among others, no lesser rights or remedies than the FHA].)

Further, and perhaps even more importantly, it may well be that reliance on these alternative procedures, with their different governing criteria, serves at least in some circumstances to encourage community opposition to projects involving desperately needed housing for the disabled. As you are well aware, opposition to such housing is often grounded on stereotypical assumptions about people with disabilities and apparently equally unfounded concerns about the impact of such homes on surrounding property values.[9] Moreover, once triggered, it is difficult to quell. Yet this is the very type of opposition that, for example, the typical conditional use permit procedure, with its general health, safety, and welfare standard, would seem rather predictably to invite, whereas a procedure conducted pursuant to the more focused criteria applicable to the reasonable accommodation determination would not.

For these reasons, I urge your jurisdiction to amend your zoning ordinances to include a procedure for handling requests for reasonable accommodation made pursuant to the fair housing laws. This task is not a burdensome one. Examples of reasonable accommodation ordinances are easily attainable from jurisdictions which have already taken this step[10] and from various nonprofit groups which provide services to people with disabilities, among others.[11] It is, however, an important one. By taking this one, relatively simple step, you can help to ensure the inclusion in our communities of those among us who are disabled.

Sincerely,

BILL LOCKYER
Attorney General

---

[9] Numerous studies support the conclusion that such concerns about property values are misplaced. (See Lauber, *A Real LULU: Zoning for Group Homes and Halfway Houses Under The Fair Housing Amendments Act of 1988* (Winter 1996) 29 J. Marshall L. Rev. 369, 384-385 & fn. 50 (reporting that there are more than fifty such studies, all of which found no effect on property values, even for the homes immediately adjacent).) A compendium of these studies, many of which also document the lack of any foundation for other commonly expressed fears about housing for people with disabilities, is available. (See Council of Planning Librarians, *There Goes the Neighborhood . . . A Summary of Studies Addressing the Most Often Expressed Fears about the Effects Of Group Homes on Neighborhoods in which They Are Placed* (Bibliography No. 259) (Apr. 1990).)

[10] Within California, these include the cities of Long Beach and San Jose.

[11] Mental Health Advocacy Services, Inc., of Los Angeles for example, maintains a collection of reasonable accommodations ordinances, copies of which are available upon request.

FAIR HOUSING IN YOUR NEIGHBORHOOD

Fair Housing In Your Neighborhood

A guide to understanding how fair housing laws protect people with disabilities in California

Mental Health Advocacy Services, Inc.

Introduction

One in every five Californians has some form of physical, mental or developmental disability. Behind this startling statistic are real people, may be even one of your family members, friends or co-workers. You wouldn't object to one of your family members or a friend who has a disability living in your neighborhood. Yet everyday, people are denied housing solely because they have a physical, mental or developmental disability. To make matters worse, new housing that is critically needed is often delayed in the development process or is never created because neighborhoods, fueled by fears or misconceptions about people with disabilities, use the political process to block construction. Similarly, all too often neighborhoods have also prevented the use of existing housing that would be appropriate for people with disabilities.

Your family member or friend may not have a place to live if communities try to prevent housing for people with disabilities in their neighborhood. Denying housing opportunities to people with disabilities is against the law (see Page 6 for the list off all protected classes), and those who violate fair housing laws may be held liable for their actions.

This guide is intended to explain how fair housing laws protect the rights of people with disabilities in California to live in residential neighborhoods and to dispel common misconceptions about how housing for people with disabilities affects neighborhoods.

A person with a disability is someone who has a physical or mental impairment that limits a major life activity; has a record of such an impairment; or is regarded as having such an impairment. People in recovery for substance abuse are also protected by federal and state fair housing laws; however, current users of illegal controlled substances are not protected by fair housing laws.

Denying Housing Opportunities to People with Disabilities Violates Fair Housing Laws

While most people understand that a landlord cannot refuse to rent an apartment to a person because he or she uses a wheelchair or needs a live-in care attendant, many do not understand that it is also illegal to restrict or prohibit the use or development of housing for people with disabilities in residential neighborhoods. Both the **Federal Fair Housing Amendments Act of 1988** and **California's Fair Employment and Housing Act** prohibit local laws and actions that result in the denial of housing opportunities for people with disabilities. These civil rights laws send a strong message: restricting or denying housing opportunities to people with disabilities is illegal and those who violate the law may be subject to serious penalties.

In the past, the development and use of housing for people with disabilities was restricted through local land use and zoning laws either by strictly limiting where it could be located or imposing discriminatory approval processes. Additionally, communities have often exerted influence over decision-makers to deny funding or block housing for people with disabilities in residential neighborhoods. Today, fair housing laws require that local governments treat housing for people with disabilities like any other housing. And, decision-makers must not be motivated or influenced by discriminatory attitudes. Federal and state fair housing laws pre-empt any local laws that discriminate against the development of housing for people with disabilities.

To provide further protections, California law provides that people with disabilities who live together and function as a "single housekeeping unit," including, for example, sharing responsibilities for their home, are permitted to live in single family residential neighborhoods, just like traditional families that are related by blood, marriage, adoption or court order.

What Does All of This Mean to You in Your Neighborhood?
Fair housing law protections mean that:

- The community can expect residents of special needs housing to be good neighbors and comply with the laws that help maintain the peace and safety of a neighborhood, just like other neighbors.

- Local governments cannot treat housing for people with disabilities differently because the residents have disabilities.

- Providers of special needs housing are responsible for how their home functions; the neighborhood has no right to interfere or make management decisions.

- People with disabilities are entitled to the same privacy protections as all other citizens, and neighbors are not entitled to confidential information about the people with disabilities who reside or will reside in the housing.

- First Amendment rights protect free expression, but actions which involve harassment, threats or intimidation for the purpose of blocking a development are not protected and may violate fair housing laws. Individuals committing these acts can be held liable.

"Special needs housing" is a term that is often used when referring to housing that meets the particular needs of people with disabilities and increases their ability to live independently in the community

---

.

The Presence of Housing for People with Disabilities Doesn't Harm Property Values or Lead to an Increase in Crime

Unfortunately, many individuals oppose housing for people with disabilities in their neighborhood because they think that it will lower the value of their home. During the past two decades more than a hundred studies throughout the United States have reported that affordable housing, including housing for people with disabilities, does not adversely impact property values. Some studies reported that the presence of housing for people with disabilities actually resulted in increased property values. There is simply no basis for opposing housing for people with disabilities because of its impact on property values.

Communities are also often worried that the presence of housing for people with disabilities in the neighborhood will lead to increases in crime. However, the overwhelming majority of studies have concluded that this fear is unfounded and that housing for people with disabilities has generally not resulted in increased crime.

A list of studies addressing property values and crime rates is provided on the next page.

A Final Word

This brochure has briefly described how fair housing laws protect the right of people with disabilities to live in residential neighborhoods, why the discriminatory practices of the past are not acceptable, and what fair housing laws mean to you and your neighborhood. If you would like additional information, you are encouraged to contact Mental Health Advocacy Services or one of the government agencies listed on the last page.

Additional Information and Resources

The following are just a few of the many studies reporting that housing for people with disabilities does not harm property values nor lead to increases in crime rates in the neighborhood in which they are located.

➢ **Documents and Websites on Affordable Housing & The Relationship to Property Values** (2003), prepared by the California Dept. of Housing & Community Development, (summarizing 15 studies spanning more than 20 years), available at www.hcd.ca.gov.

➢ **Why Affordable Housing Does Not Lower Property Values** (1996), prepared by Home base (summarizing 11 studies including those involving housing for people with disabilities), available at www.nonprofithousing.org.

➢ **The Question of Property Values** (1996), Michael Dear and Robert Walton (including an annotated bibliography of more than 40 studies addressing diverse housing types from 1973-1993), available at www.bettercommunities.org.

The Federal Fair Housing Amendments Act of 1988 makes it illegal to discriminate in housing against individuals based on their race, color, religion, gender, national origin, familial status (families with children) or disability. California's Fair Employment and Housing Act provides the same protections as federal law and four additional bases: marital status, ancestry, sexual orientation and source of income.

These government agencies provide fair housing information and enforce fair housing laws.

U.S. Dept. of Housing & Urban Development
www.hud.gov
(800) 669-9777 (voice)
(800) 927-9275 (TTY)

U.S. Dept. of Justice
www.usdoj.gov
(800) 514-0301 (voice)
(800) 514-0383 (TTY)

California Dept. of Fair Employment & Housing
www.dfeh.ca.gov
(800) 233-3212 (voice)
(800) 700-2320 (TTY)

For additional information, contact:

Mental Health Advocacy Services, Inc.
A nonprofit organization providing legal services to people with mental and developmental disabilities

3255 Wilshire Blvd #902
Los Angeles, CA 90010
(213) 389-2077
(213) 389-2595 fax
website: www.mhas-la.org

November 2004

LOS ANGELES COUNTY GOLDEN ROD

NOTICE OF DEPARTMENT CLIENT ORIENTED FACILITY (RELOCATION or OPENING) WITH POTENTIAL LOCAL IMPACT

The following department facility relocation is proposed to be initiated, or will undergo change, and may impact one or more cities within your District:

Name of Agency / Department:	1		
Agency / Department Contact:	2 Deputy Director		(213)
Headquarters office address:	3 If different from Provider Address		
Current program address:	4 Provider/Program Address		
Address program moved from:	5 Same as Above		
Address program is considering moving to:	4		
Timeframe or date of move:	7	**Distance from old address:**	9 Can use Mapquest
Max. contract amount (MCA:) (for contract agencies only)	8	**Contract allocation for facility:**	10
Name of program to be moved:	7		
Population to be served: (Specify age group / spec. populations)	11 Populations such as Juvenile Probationers, Dual Diagnosis, Foster Care, Adults, Children, Families, Victims of Abuse, Special Education, Homeless etc.		
List services that will be provided:	12 Mental Health Outpatient, Day Treatment, Residential, Clubhouse etc.		
List services that were already being provided at this location:	13 Is this a new Program or moving of Existing Programs?		
Number of staff:	14	**Number of clients to be served**:	16
Zoned for:	15	**Office hours:**	17

Summary of site improvements, i.e. renovation, new construction, (include start and finish dates):

Type of improvement:	Start date:	Finish date:
17		
Type of improvement:	Start date:	Finish date:
Type of improvement:	Start date:	Finish date:
Type of improvement:	Start date:	Finish date:
Type of improvement	Start date:	Finish date:

Description of surrounding 100 yard area (including specific neighborhood information):

18 The Board wishes to be warned about possible public opposition.

Parking available: Y   N   19   **Special Permits/Licensing:**   22

Number of spaces   20

Secured parking: Y   N   21

Assessment of potential impact:

23

Description of any contact, support or input from local community leaders, local governments or elected officials including any departmental community outreach/assessment or buy in (if applicable):

24

Distance to public transportation and accessibility:
25
ADDITIONAL/SUPPLEMENTAL INFORMATION
Description of land use review, e.g. specific zoning information and restrictions:
26
Description of previous use of the facility and proposed changes to the previous use:
27
Description of anticipated program volume and frequency of client visitation:
28

c: Health Deputy

Overview of Los Angeles County Supervisorial Districts

- DMH Clinic
- ____ Supervisorial District
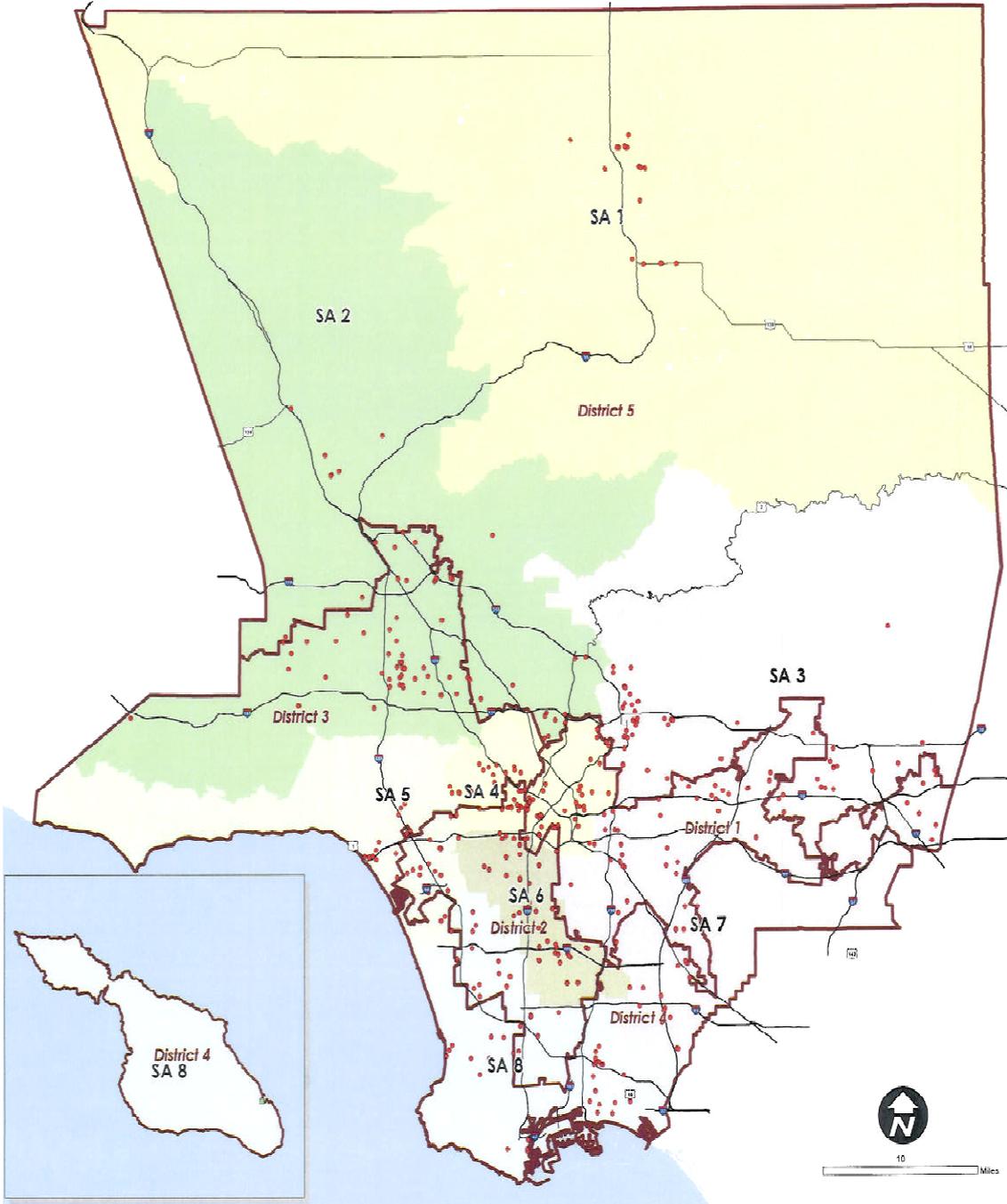
LOS ANGELES COUNTY SUPERVISORIAL DISTRICTS

First Supervisorial District Map

Gloria Molina
Supervisor, First District
Population: 2,091,996*
Square Miles: 228
(*2006 County Estimate)

(213) 974-4111
molina@bos.lacounty.gov
856 Kenneth Hahn
Hall of Administration
500 W. Temple Street
Los Angeles, CA 90012
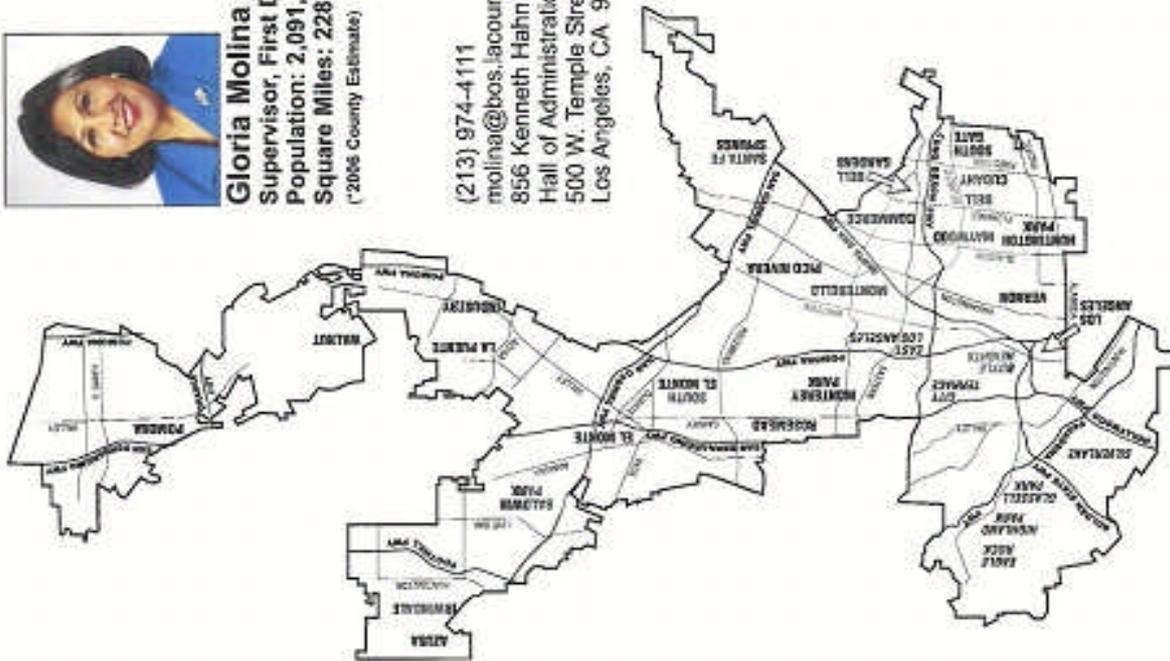
Cities and Communities Within The First District

Cities	Unincorporated Areas	Los Angeles City
Azusa	Avocado Heights	Boyle Heights
Baldwin Park	Bandini (islands)	Chinatown
Bell	Bassett	Downtown
Bell Gardens	Citrus (Covina Islands) (portion)	Eagle Rock
Commerce	East Azusa (islands) (portion)	Echo Park
Cudahy	East Los Angeles:	El Sereno
El Monte	Belvedere Gardens	Expo Park (portion)
Huntington Park	City Terrace	Glassell Park
Industry	Eastmont	Highland Park
Irwindale	Firestone (portion)	Lincoln Heights
La Puente	Florence (portion)	Little Tokyo
Los Angeles (portion)	Graham (portion)	Los Feliz (portion)
Maywood	Hacienda Heights (portion)	Silverlake (portion)
Montebello	Los Nietos (portion)	Westlake (portion)
Monterey Park	North Claremont (islands) (portion)	Wholesale District (portion)
Pico Rivera	Rowland Heights (portion)	
Pomona	South San Gabriel	
Rosemead	South San Jose Hills	
Santa Fe Springs	South Whittier (portion)	
South El Monte	Sunshine Acres	
South Gate	Valinda	
Vernon	Walnut Park	
Walnut	West Puente Valley	
	West Whittier (portion)	
	Whittier Narrows	

Cities and Communities Within The Second District

Cities	Unincorporated Areas	Los Angeles City
Carson	Athens (or West. Athens)	Adams
Compton	Baldwin Hills	Barnes City
Culver City	Del Aire	Central Avenue
Gardena	East Rancho Dominguez	Crenshaw
Hawthorne	El Camino Village	Expo Park (portion)
Inglewood	Firestone (portion)	Green Meadows
Lawndale	Florence (portion)	Hollywood (portion)
Los Angeles (portion)	Graham (portion)	Koreatown
Lynwood	Ladera Heights	La Brea
	Lennox	Mar Vista
	Marina del Rey (portion)	Miracle Mile (portion)
	Rancho Dominguez	North Shoestring
	View Park	Palms (portion)
	West Carson (portion)	Sawtelle (portion)
	West Compton	South Park
	West Rancho Dominguez/Victoria	South Vermont
	Westmont	Venice (portion)
	Willowbrook	Vermont Square
	Windsor Hills	Watts
	Wiseburn	West Adams
		Westchester (portion)
		Westlake (portion)
		Wholesale District (portion)
		Wilshire Center (portion)

Second Supervisorial District Map

Mark Ridley-Thomas
Supervisor, Second District
Population: 2,067,436*
Square Miles: 158
(*2006 County Estimate)

(213) 974-2222
SecondDistrict@bos.lacounty.gov
866 Kenneth Hahn
Hall of Administration
500 W. Temple Street
Los Angeles, CA 90012

Third Supervisorial District Map
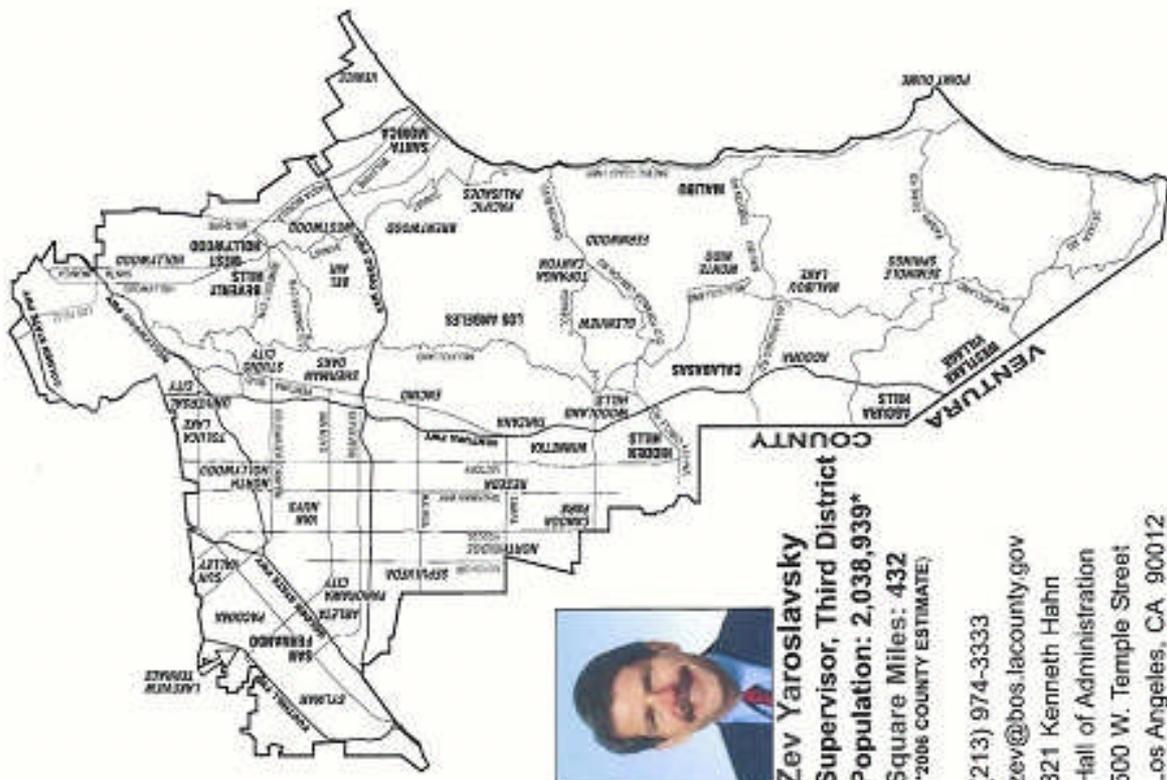
Zev Yaroslavsky
Supervisor, Third District
Population: 2,038,939*
Square Miles: 432
(*2006 COUNTY ESTIMATE)

(213) 974-3333
zev@bos.lacounty.gov
821 Kenneth Hahn
Hall of Administration
500 W. Temple Street
Los Angeles, CA 90012

Cities and Communities Within The Third District

Cities

Agoura Hills
Beverly Hills
Calabasas
Hidden Hills
Los Angeles (portion)
Malibu
San Fernando
Santa Monica
West Hollywood
Westlake Village

Unincorporated Areas

Agoura
Calabasas (adjacent)
Calabasas Highlands
Franklin Canyon
Malibu Vista
Mulholland Corridor
Cornell
Las Virgenes/Malibu
  Canyon
Malibou Lake
Malibu Bowl
Malibu Highlands
Malibu/Sycamore
  Canyon
Monte Nido

Seminole Hot Springs
Sunset Mesa
Triunfo Canyon
Topanga Canyon
Fernwood
Glenview
Sylvia Park
Topanga
Universal City
Veterans Administration
  Center
West Chatsworth
  (portion)

Los Angeles City

Arleta
Atwater Village
Bel Air
Benedict-Coldwater
  Canyons
Beverly Glen
Brentwood
Canoga Park (portion)
Chatsworth (portion)
Encino
Hancock Park
Hollywood (portion)
Lake Balboa
Lakeview Terrace
Los Feliz (portion)
Miracle Mile (portion)

Mission Hills (portion)
Mount Olympus
North Hills
North Hollywood
Northridge
Pacific Palisades
Pacoima
Palms (portion)
Panorama City
Park La Brea
Rancho Park
Reseda
Sawtelle (portion)
Sepulveda
Sherman Oaks
Silverlake (portion)

Studio City
Sun Valley (portion)
Sunland (portion)
Sylmar (portion)
Tarzana
Toluca Lake
Valley Glen
Valley Village
Van Nuys
Venice (portion)
Warner Center
West Los Angeles
Westwood
Wilshire Center
  (portion)
Winnetka
Woodland Hills

Cities and Communities Within The Fourth District

Cities	Unincorporated Areas	Los Angeles City
Artesia	East Whittier	Harbor City
Avalon	Hacienda Heights	Playa del Rey
Bellflower	(portion)	San Pedro
Cerritos	La Rambla	Westchester (portion)
Diamond Bar	Long Beach (islands)	Wilmington
Downey	Los Cerritos Wetlands	
El Segundo	Los Nietos (portion)	
Hawaiian Gardens	Marina del Rey	
Hermosa Beach	(portion)	
La Habra Heights	Northeast Whittier	
La Mirada	(portion)	
Lakewood	Norwalk/Cerritos	
Lomita	(islands) (portion)	
Long Beach	Northwest Whittier	
Los Angeles (portion)	Rowland Heights	
Manhattan Beach	(portion)	
Norwalk	San Clemente Island	
Palos Verdes Estates	Santa Catalina Island	
Paramount	South Whittier (portion)	
Rancho Palos Verdes	West Carson (portion)	
Redondo Beach	West Whittier (portion)	
Rolling Hills	Westfield	
Rolling Hills Estates		
Signal Hill		
Torrance		
Whittier		

Fourth Supervisorial District Map

Don Knabe
Supervisor, Fourth District
Population: 2,009,053*
Square Miles: 432
(*2006 COUNTY ESTIMATE)

(213) 974-4444
don@bos.lacounty.gov
822 Kenneth Hahn
Hall of Administration
500 W. Temple Street
Los Angeles, CA 90012

Fifth Supervisorial District Map

Cities and Communities Within The Fifth District

Cities	Unincorporated Areas	
Alhambra	Acton	Neenach
Arcadia	Agua Dulce	North Claremont
Bradbury	Alpine	(islands) (portion)
Burbank	Altadena	Northeast San Dimas
Claremont	Antelope Acres	(islands)
Covina	Big Pines	Oat Mountain
Duarte	Bouquet Canyon	Pearblossom
Glendale	Canyon Country	Placerita Canyon
Glendora	Castaic	Quartz Hill
La Canada-Flintridge	Castaic Junction	Redman
La Verne	Charter Oak (islands)	Roosevelt
Lancaster	Cirrus (Covina islands)	San Pasqual
Los Angeles (portion)	(portion)	Saugus
Monrovia	Crystalaire	Soledad
Palmdale	Deer Lake Highlands	Stevenson Ranch
Pasadena	Del Sur	Sulphur Springs
San Dimas	East Azusa (islands)	Sunland/Sylmar/
San Gabriel	(portion)	Tujunga (adjacent)
San Marino	East Pasadena	Sun Village
Santa Clarita	East San Gabriel	Three Points
Sierra Madre	El Dorado	Twin Lakes
South Pasadena	Elizabeth Lake	Val Verde
Temple City	Fairmont	Valencia
West Covina	Forrest Park	Valyermo
	Glendora (islands)	Vasquez Rocks
Los Angeles City	Gorman	West Arcadia (islands)
Canoga Park (portion)	Green Valley	West Chatsworth
Chatsworth (portion)	Hi Vista	(portion)
Granada Hills	Juniper Hills	West Pomona (islands)
Mission Hills (portion)	Kagel Canyon	White Fence Farms
Olive View Hospital	Kinneola Mesa	Wilsona Gardens
(in Sylmar)	La Crescenta	Wrightwood
Porter Ranch	Lake Hughes	
Sunland (portion)	Lake Los Angeles	
Sun Valley (portion)	Lakeview	
Tujunga	Lang	
	Leona Valley	
	Littlerock	
	Llano	
	Longview	
	Mint Canyon	
	Monrovia/Arcadia/	
	Duarte (islands)	
	Montrose	

Michael D. Antonovich
Supervisor, Fifth District
Population: 2,077,868*
Square Miles: 2,838
(*2006 COUNTY ESTIMATE)

(213) 974-5555

FifthDistrict@lacbos.org

869 Kenneth Hahn
Hall of Administration
500 W. Temple Street
Los Angeles, CA 90012