ASSEMBLY COMMITTEE ON HUMAN SERVICES

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INFORMATIONAL HEARING:

WORKING TOGETHER TO ENSURE HOUSING OPPORTUNITIES FOR PEOPLE WITH DISABILITIES AND CHILDREN

FEBRUARY 18, 2009

BACKGROUND BRIEFING PAPER

Table of Contents

WORKING TOGETHER TO ENSURE HOUSING OPPORTUNITIES FOR PEOPLE WITH DISABILITIES AND CHILDREN

WORKING TOGETHER TO ENSURE HOUSING OPPORTUNITIES FOR PEOPLE WITH DISABILITIES AND CHILDREN

I. INTRODUCTION

There are approximately 17,000 residential care and treatment programs in California providing community-based housing for over 260,000 people with disabilities, including seniors with disabilities, and at-risk children. (*See* Appendix A: California Statewide Residential Care Facilities (10/08).)[1] As the need for housing opportunities for these populations grows, so too do the concerns expressed by current residents of neighborhoods. Local governments frequently find themselves confronted with sometimes conflicting interests: the state and local community interests in ensuring the availability of safe and healthy housing to meet the needs of people with disabilities, seniors and at-risk children and supporting their successful integration into the community; the rights of individuals who rely on group living arrangements to the housing and supports they need and choose to be included as members of the community; and concerns of some current residents over the anticipated impact of homes for people with disabilities and children on their neighborhoods.

***The intended outcomes of this informational hearing are*:**

- To increase understanding and awareness of state and federal law, including fair housing laws, that apply to community housing for people with disabilities and children.

- To identify strategies and promising practices for ensuring equal housing opportunity for people with disabilities and at-risk children. This includes approaches to addressing local concerns that are consistent with the governmental and broader societal interests in ensuring the health and safety of communities, removing governmental constraints to the maintenance, improvement and development of housing for people with disabilities, and protecting the civil rights of individuals to choose where and with whom they live and to be part of neighborhoods and communities.

California has been a pioneer in supporting the right of people with disabilities to live and receive services and supports in non-institutional, community-based settings. Examples include the following:

- The Lanterman Petris Short Act (LPS), enacted in 1969, mandates due process safeguards to protect the liberty interests of people with psychiatric disabilities ("mental disorders") in the establishment of conservatorships. Once a conservatorship is established, LPS requires the conservator to place the individual "in the least restrictive placement, as designated by the court."[2] If the conservatee is not to be placed in his or her own home or the home of a relative, first priority must be given to placement in a suitable facility as close as possible to his or her home or the home of a relative. A suitable home is defined

under LPS as the least restrictive alternative placement available and necessary to achieve the purpose of treatment.[3]

- The Lanterman Developmental Disabilities Services Act (Lanterman Act),[4] enacted in 1977, grants to each person in the state with a developmental disability a right to services and supports in the "least restrictive environment." The purpose of the Lanterman Act is: "to prevent or minimize the institutionalization of developmentally disabled persons and their dislocation from family and community, and to enable them to approximate the pattern of everyday living of nondisabled persons of the same age and to lead more independent and productive lives in the community."[5] Each person with a developmental disability is entitled to treatment, services and supports which, to the maximum extent possible, are provided in natural community settings, and assist them to achieve the most independent, productive and normal lives possible.[6] Under the Lanterman Act, the Department of Developmental Services, through contracts with 21 private non-profit regional centers, provides services to over 230,000 individuals, approximately 33,000 of whom live in homes licensed as community care facilities or intermediate care facilities.[7]

- Proposition 36—the Substance Abuse and Crime Prevention Act of 2000 (SACPA)—was approved by voters and requires probation and drug treatment instead of incarceration for individuals convicted of certain nonviolent drug offenses. The SACPA has led to a dramatic increase in demand for residential treatment programs. The Department of Drug and Alcohol Programs reported an increase of 179 licensed residential programs (a 27% increase) in the first three years of implementation—to a total at that time of 842 licensed residential facilities with a bed capacity of 20,156.[8] There are now approximately 929 facilities with a capacity of 21,751. (Appendix A.)

Resolution of the policy issues surrounding the siting of housing for people with disabilities and children is not easy. Many of the bills introduced in the state Legislature since state and federal fair housing laws were amended to apply to housing for people with disabilities and children have failed because they would create unjustified obstacles to equal housing opportunity and/or would violate fair housing rights. (*See* Appendix B for a list of recent legislation related to siting of residential care facilities.) A useful background document, which includes a discussion of policy issues, was produced in 2002 by the California State Library, California Research Bureau (referred to in this background document as the CRB Report; Appendix C).[9]

II. LAWS AFFECTING SITING OF HOUSING FOR PEOPLE WITH DISABILITIES AND CHILDREN

The discussion that follows addresses some, but not all, of the statutes that affect or are relevant to the siting of group living arrangements for people with disabilities and at-risk children.

A. Laws Prohibiting Discrimination

State and federal law prohibits discrimination in housing against protected classes, including people with disabilities and families with children. These laws prohibit state and local government entities from utilizing land-use or zoning requirements that have the effect of making housing opportunities unavailable to people with disabilities and children. Fair housing

laws apply to licensed and to unlicensed homes, including living arrangements that are exempt from licensing. They apply to homes for six or fewer individuals and to homes for more than six.

Disabilities covered by state and federal anti-discrimination laws.

The definition of a person with a disability is substantially the same under state and federal law. California law defines a person with a disability as someone who has a physical or mental disorder or condition that limits a major life activity; has a record of such impairment; or is regarded as having such impairment.[10]

The definition does not include disabilities resulting from the *current* unlawful use of controlled substances or other drugs. Therefore, current users of illegal controlled substances are not protected by fair housing laws—unless they have a separate disability. However, people with disabilities related to *former* illegal use of controlled substances and who are in drug treatment programs are protected by state and federal anti-discrimination laws, including fair housing laws. In the case of alcoholism, on the other hand, persons with disabilities related either to *former or current* alcohol abuse are protected by state and federal anti-discrimination and fair housing laws. Fair housing laws do not protect persons who have been convicted of the illegal manufacture or distribution of controlled substances or individuals, with or without disabilities, who present a direct threat to the person or property of others.

1. Federal Law

The Fair Housing Amendments Act of 1988

In 1988, Congress added both disability and familial status (primarily households with children) to the categories protected against discrimination in housing under the Fair Housing Act (FHA), in passing the Fair Housing Amendments Act of 1988 (FHAA).[11] Under the FHAA, actions that would constitute discrimination on the basis of race, color religion, sex (gender) or national origin under the FHA are also unlawful when based on disability or familial status.[12]

Three years before enactment of the FHAA, U.S. Supreme Court Justice Thurgood Marshall, in the landmark case, *City of Cleburne v. Cleburne Living Center, Inc.*, recognized that "[t]he right to 'establish a home' has long been cherished as one of the fundamental liberties embraced by the Due Process Clause. . . . For retarded adults,[13] this right means living together in group homes, for as deinstitutionalization has progressed, group homes have become the primary means by which retarded adults can enter life in the community."[14]

Although *Cleburne* specifically concerned a group home for people with mental retardation, Justice Marshall's words apply with equal force to group living arrangements for others with disabilities. He reiterated the lower court's finding that the availability of such homes in communities '"is an essential ingredient of normal living patterns for persons who are mentally retarded, and each factor that makes such group homes harder to establish operates to exclude persons who are mentally retarded from the community.'" Excluding group homes, Marshall

noted, "deprives the retarded of much of what makes for human freedom and fulfillment—the ability to form bonds and take part in the life of a community."[15]

Reflecting Justice Marshall's reasoning in *Cleburne*, land use and zoning was a major focus of the FHAA. The legislative history of the FHAA clarifies that, while the act does not preempt local land use and zoning laws, it was intended to reach a wide array of discriminatory housing practices, including licensing laws and land use and zoning laws affecting congregate living arrangements for people with disabilities that purport to advance the health and safety of communities:

> 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 with handicaps to live in communities. This has been accomplished by such means as the enactment or imposition of health, safety or land-use requirements on 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 persons with disabilities.[16]

Thus, the FHAA applies to local government entities and prohibits them from making zoning or land use decisions or implementing land use policies that exclude or otherwise discriminate against protected persons, including group housing for individuals with disabilities.[17]

In 1999, the U.S. Department of Justice and the Department of Housing and Urban Development jointly issued a statement on group homes, local land use, and the FHA.[18] The Joint Statement notes that the FHAA makes it unlawful:

- To utilize land use policies or actions that treat groups of persons with disabilities less favorably than groups of non-disabled persons. An example would be an ordinance prohibiting housing for persons with disabilities or a specific type of disability, such as mental illness, from locating in a particular area, while allowing other groups of unrelated individuals to live together in that area.

- To take action against, or deny a permit, for a home because of the disability of individuals who live or would live there. An example would be denying a building permit for a home because it was intended to provide housing for persons with mental retardation.

- To refuse to make reasonable accommodations in land use and zoning policies and procedures where such accommodations may be necessary to afford persons or groups of persons with disabilities an equal opportunity to use and enjoy housing.

    - What constitutes a reasonable accommodation is a case-by-case determination.

    - Not all requested modifications of rules or policies are reasonable. If a requested modification imposes an undue financial or administrative burden on a local

government, or if a modification creates a fundamental alteration in a local government's land use and zoning scheme, it is not a "reasonable" accommodation.

Discrimination under the FHAA can be intentional—that is, based on a conscious decision to treat people differently. Intentional discrimination includes land use decisions by local officials that are motivated by stereotypes, prejudices, unfounded fears or misperceptions about people with disabilities. To show discriminatory intent in such circumstances, an individual need only show that disability was one of the factors considered by the local governmental body in making its decision.

Discrimination under the FHAA can also be unintentional, as when a neutral rule or practice has an unintended discriminatory effect, regardless of motivation—referred to as disparate impact discrimination. A frequently cited example is an ordinance with a restrictive definition of "family," limiting the number of unrelated persons who may reside in a single family residential zone. Even though no particular group is singled out, the ordinance would have a disparate impact on people with disabilities who more often live together in group housing so that they are able to live in the community.

Reasonable Accommodations

Discrimination based on disability includes two bases for discrimination that are not applicable to other protected groups: (1) Refusal to provide a "reasonable accommodation"—i.e., a change in a rule, policy or practice to enable a person with a disability to live in the community; or (2) refusal to permit a tenant, at the tenant's expense, to make a "reasonable modification" to the structure of a unit.

The reasonable accommodation requirement is a means for requesting flexibility in the application of land use and zoning requirements or, on occasion, waiving of certain requirements when necessary to achieve equal housing opportunity.[19] Cities and counties must consider requests for reasonable accommodations and provide accommodations when "reasonable." In considering an accommodation request, the factors considered are:

- Whether the housing that is the subject of the request is to be occupied by people with disabilities; and,

- Whether the requested accommodation is necessary to make the housing in question available to people with disabilities.

If these factors are met, the accommodation may be denied only if it is established that it is not "reasonable" because either:

- The requested accommodation would impose an undue financial or administrative burden on the city or county; or,

- The requested accommodation would result in a fundamental alteration of the local zoning code.

Adoption of Reasonable Accommodations Procedures

Some local jurisdictions have adopted reasonable accommodation procedures applicable to land use regulations and practices. Other jurisdictions require developers and housing providers to go through a conditional use permit or variance process to obtain a waiver of zoning or land use regulations. Housing advocates argue, however, that the conditional use permit or variance processes themselves are often a barrier to housing. For example: Public notice and hearing processes often generate neighborhood opposition that may unduly influence decision-making; the process can stigmatize the prospective residents; and the process is often lengthy, costly and burdensome.

Another problem noted in applying a conditional use permit or variance process to obtain an exception to local land use and zoning requirements is that the standard is more stringent than the standard for obtaining a reasonable accommodation. A reasonable accommodation requires only that the exception is necessary to enable people with disabilities to have equal access to and to use and enjoy housing. A reasonable accommodation may be denied only if the local government can demonstrate that it would result in an undue financial or administrative burden or in a fundamental alteration of the local zoning code. To obtain a variance, on the other hand, the applicant must establish hardship.

Neither state nor federal fair housing laws explicitly require that local governments have written reasonable accommodation procedures. California's housing element law, however, requires that, in addition to the needs analysis for persons with disabilities, the housing element must analyze potential governmental constraints to the development, improvement and maintenance of housing for persons with disabilities.[20] The housing element must also include a program that "shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or, with supportive services for, persons with disabilities."[21] The state Department of Housing and Community Development's review of housing elements for compliance with these provisions includes a review for reasonable accommodation provisions to identify and analyze whether the locality has an established reasonable accommodation procedure.[22]

Responding to these issues, in 2001, then Attorney General, Bill Lockyer, sent a letter to all California cities and counties encouraging them to amend their zoning ordinances to add procedures for handling reasonable accommodation requests. (Attached as Appendix D.) In counseling against the use of conditional use permit and variance procedures instead of a reasonable accommodation process, the Attorney General noted:

- The risk of wrongfully denying a disabled applicant's request for relief and incurring the consequent liability for monetary damages, penalties; and,

- The public process for conditional use permits and variances, with its health, safety and welfare criteria, often invites and encourages community opposition to desperately needed housing for people with disabilities based on stereotypes and unfounded fears (e.g., about the impact on surrounding property values).

For these reasons, the Attorney General urged jurisdictions to amend their zoning ordinances to include a procedure for handling requests for reasonable accommodation made pursuant to fair housing laws.

The Americans with Disabilities Act

Title II of the Americans with Disabilities Act (ADA)[23] and Section 504 of the Rehabilitation Act of 1973 (Section 504)[24] also prohibit discrimination on the basis of disability by local government entities and apply to land-use and zoning ordinances and practices. The ADA and Section 504 likewise require reasonable accommodations in appropriate circumstances.[25]

In addition, in the landmark United States Supreme Court case, *Olmstead v. L.C.*,[26] the Court held that the unnecessary institutionalization of people with disabilities whose needs could be met in more integrated, community-based settings is a form of discrimination based on disability in violation of Title II of the ADA. Responding to the *Olmstead* decision, in 2003 the state released its California Olmstead Plan. The Plan reflected the state's "desire to continue to ensure that persons with disabilities have appropriate access and choice regarding community based services and placement options" and a commitment "to adopting and adhering to policies and practices that will provide a full array of services and programs that make it possible for persons with disabilities to remain in their communities and avoid unnecessary institutionalization." In an Executive Order dated September 24, 2008, Governor Schwarzenegger reaffirmed the state's "commitment to provide services to people with disabilities in the most integrated setting, and to adopt and adhere to policies and practices that make it possible for persons with disabilities to remain in their communities and avoid unnecessary institutionalization." Barriers and obstacles to establishing housing for people with disabilities undermine the state's efforts to comply with the ADA's integration mandate as articulated by the Supreme Court in *Olmstead*.

2. State Law

The California Fair Employment and Housing Act

State law similarly addresses local land use practices that impact housing for people with disabilities and children. In 1992 and 1993 the Legislature amended the California Fair Employment and Housing Act (FEHA)[27] to conform to the federal FHAA.[28] The 1993 legislation, in legislative findings and declarations concerning unlawful housing practices prohibited under FEHA, stated:

> (a) That public and private land use practices, decisions, and authorizations have restricted, in residentially zoned areas, the establishment and operation of group housing, and other uses.
>
> (b) That persons with disabilities and children who are in need of specialized care and included within the definition of familial status are significantly more likely than other persons to live with unrelated persons in group housing.
>
> (c) That this act covers unlawful discriminatory restrictions against group housing for these persons.[29]

FEHA explicitly says that it provides protections against discrimination in housing that are at least as extensive as those under the federal Fair Housing Act and its implementing regulations.[30] Therefore, any violation of the federal FHAA and its implementing regulations would also constitute of violation of California's FEHA.

Welfare & Institutions Code Section 5120

Section 5120 of the Welfare and Institutions Code prohibits cities and counties from discriminating through land-use and zoning laws, ordinances, or rules and regulations between the use of property for inpatient and outpatient psychiatric care and treatment facilities and use of property for hospitals and nursing homes. This means that if an area is zoned for hospitals, nursing homes, convalescent homes or rest homes, or these uses are permitted by conditional use permit, then inpatient and outpatient mental health facilities, including housing for people with psychiatric disabilities, must also be permitted, regardless of the number of residents or patients. Section 5120 was enacted to further the state's policy that care and treatment of individuals with psychiatric disabilities be provided in the local community.

Planning and Zoning Law

California's Planning and Zoning Law[31] prohibits discrimination by local governments in land-use and zoning actions based on specified categories, including familial status, disability, or occupancy by low or middle income persons.[32] It also prohibits local governments from imposing different requirements on single-family or multi-family homes, because of the disability, familial status or income of the intended residents, than those imposed on developments generally.[33]

Local government is also required to have a program that sets forth a five-year schedule of actions to implement its housing element.[34] The program must "[a]ddress and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including . . . housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities."[35]

Constitutional Right to Privacy

The California Constitution contains an express right to privacy, adopted through the initiative process in 1972. The California Supreme Court has held that this constitutional right protects the fundamental right to choose with whom to live.[36] The right to privacy has been held to protect the right of unrelated persons to live together when they function as a household.[37] This can have implications for people with disabilities, who frequently live together in licensed or unlicensed living arrangements of varying size. Thus, for example, local land-use ordinances that define "family" or the number of people who can live together based on whether persons are related by blood, marriage or adoption, but treat differently or limit the number of unrelated people who live together as a household, would violate the constitutional right to privacy.

B. California Licensing Laws

1. Licensing Agencies and Types of Licensed Homes

Most residential programs for people with disabilities are licensed by one of three state agencies: The Department of Social Services (DSS), the Department of Alcohol and Drug Programs (DADP), and the Department of Public Health (DPH). The following list is not exhaustive, but covers the major categories of residential facilities. (*See also*, Appendix A.)

Department of Social Services (DSS)

The Community Care Licensing Division of DSS licenses a range of housing types pursuant to the Community Care Facilities Act (CCF Act)[38] and the Residential Care Facilities for the Elderly Act (RCFE Act).[39] These homes provide 24-hour non-medical care and supervision for adults and children. The CCF Act is intended to meet the "urgent need to establish a coordinated and comprehensive statewide service system of quality community care for mentally ill, developmentally and physically disabled, and children and adults who require care or services" by licensed facilities and as alternatives to state institutionalization.[40] Homes licensed under the RCFE Act are intended to "represent a humane approach to meeting the housing, social and service needs of older persons, and can provide a homelike environment for older persons with a variety of care needs."[41]

- *Group Homes* are homes of any capacity that provide 24-hour nonmedical care and supervision in a structured environment, primarily to children and youth who are in the foster care system, who have developmental and emotional disabilities, or who are partipating in alcohol and drug treatment or other programs. In addition, Group Homes provide social, psychological, and behavioral programs for lower risk juvenile offenders.

- *Small Family Homes* provide 24-hour care in the licensee's family residence for six or fewer children who have emotional, developmental, or physical disabilities, and who require special care and supervision as a result of such disabilities.

- *Adult Residential Facilities* are homes of any capacity that provide 24-hour non-medical care for adults ages 18 through 59, who are unable to provide for their own daily needs. Adults may have physical, developmental, and/or mental disabilities.

- *Residential Care Facilities for the Elderly (RCFE)* provide care, supervision and assistance with activities of daily living, such as bathing and grooming. They may also provide incidental medical services under special care plans. The facilities provide services to persons 60 years of age and over and persons under 60 with compatible needs. RCFEs may also be known as assisted living facilities, retirement homes and board and care homes. The homes can range in size from six beds or fewer to over 100 beds. The residents in these facilities require varying levels of personal care and protective supervision.

- *Social Rehabilitation Facilities* provide 24-hour non-medical care and supervision in a group setting to adults recovering from psychiatric disabilities, who temporarily need assistance, guidance, or counseling.

- *Residential Facilities for the Chronically Ill* are homes with a maximum licensed capacity of 25. Care and supervision is provided to adults who have Acquired Immune Deficiency Syndrome (AIDS) or the Human Immunodeficiency Virus (HIV).

- *Adult Residential Facilities for Persons with Special Health Care Needs (ARFPSHN).* SB 962 (Chesbro 2005) created a pilot program authorizing the Community Care Licensing Division to license and monitor what are often referred to as SB 962 Homes to provide 24-hour services for up to five adults with developmental disabilities, who are moving to the community from Agnews Developmental Center, and who have special health care and intensive support needs.

Department of Alcohol and Drug Programs (DADP)

- Alcohol *or Drug Abuse Recovery or Treatment Facilities* provide non-medical recovery or treatment services in a supportive environment for adults who are addicted to alcohol or drugs.

DADP does not license *Sober Living Homes*, which are unlicensed cooperative living arrangements (sometimes referred to as a sober living environment, transitional housing, or alcohol and drug free housing) for persons recovering from alcohol and/or other drug problems. Because the residents of such homes are people with disabilities under state and federal anti-discrimination statutes, the same fair housing protections apply as to DADP-licensed facilities.

A bill introduced in the 2007-08 legislative session (SB 992 (Wiggins)) would have created a licensing category that would apply to approximately 900 sober living homes, referred to in the bill as "adult recovery maintenance facilities," with oversight by DADP. SB 992 was vetoed on September 30, 2008.[42]

Department of Public Health (DPH)

The Department of Public Health's Licensing and Certification Program licenses a range of residential health facilities under the Health & Safety Code.[43] Residential health facilities include the following:

- *Congregate Living Health Facilities*, provide home-like settings, usually for no more than 12 residents who need the availability of skilled nursing care on an intermittent, recurring, extended or continuous basis. They provide services for people with physical disabilities, who may be ventilator dependent, persons with a diagnosis of a terminal or life-threatening illness, or people who are "catastrophically and severely disabled."

- *Intermediate Care Facilities/Developmentally Disabled* are facilities for 16 or more individuals that provide 24-hour personal care, habilitation, developmental, and

supportive health services to persons with developmental disabilities whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.

- *Intermediate Care Facilities/Developmentally Disabled-Habilitative* have a capacity of 4 to 15 beds and provide 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer persons with developmental disabilities who have intermittent recurring needs for nursing services, but have been certified by a medical doctor as not requiring availability of continuous skilled nursing care.

- *Intermediate Care Facilities/Developmentally Disabled-Nursing* have a capacity of 4 to 15 beds and provide 24-hour personal care, developmental services, and nursing supervision for persons with developmental disabilities who have intermittent recurring needs for skilled nursing care but have been certified by a physician as not requiring continuous skilled nursing care. They serve medically fragile persons who have developmental disabilities or demonstrate significant developmental delay that may lead to a developmental disability if not treated.

- *Nursing Facilities* are licensed health facilities that are certified to participate as a provider of care either as a skilled nursing facility in the federal Medicare Program or as a nursing facility in the federal Medicaid Program, or as both.

- *Skilled Nursing Facilities* provide skilled nursing care and supportive care to persons whose primary need is for availability of skilled nursing care on an extended basis.

2. Local Regulation of Housing for People with Disabilities and Children

a. Homes licensed for six or fewer residents

State licensing provisions pertaining to residential community care facilities, residential care facilities for the elderly, residential health facilities, and drug and alcohol treatment programs all provide that licensed homes for six or fewer individuals "shall be considered a residential use of property" and the residents and operators "shall be considered a family for purposes of any law or zoning ordinance which relates to the residential use of property."[44] The provisions further provide that such housing may not be treated as a business or as differing in any other way from a family dwelling. Restrictive covenants prohibiting business or commercial use or limiting neighborhoods to "residential" use may not be applied to exclude homes for people with disabilities for six or fewer, based not only on the language of the facility licensing statutes but also on FEHA, which prohibits discrimination that restricts housing for people with disabilities.[45]

b. Homes Licensed for Seven or More Residents

California facility licensing statutes explicitly protect facilities for six or fewer residents from local land use and zoning regulation that treat such housing differently than single-family homes. This begs the question of the extent to which larger homes may be regulated and restricted. Local governments often impose conditions or restrictions on housing for more than six

individuals, such as requiring conditional use permits or excluding larger homes from designated residential zones.

The law is less clear on the extent to which these larger homes may be subject to local land use regulation. The distinction between housing for six or fewer and housing for more than six residents is based on state licensing statutes; no such distinction is made in state and federal fair housing statutes. Thus, for example, the California cases invalidating restrictive covenants as applied to licensed housing cite to licensing statutes that say homes for six or fewer must be treated like single-family residences (see note 45); but, the holdings themselves have been based on fair housing laws that broadly prohibit discrimination against people with disabilities. Federal and state case law does not adequately resolve these questions.[46]

While state law does confer greater discretion on local governments to impose requirements on homes for more than six residents, fair housing law prohibits requirements that apply exclusively to housing for protected classes—i.e., people with disabilities and children. Large homes for people with disabilities or children could not, for example, be excluded entirely from zones that allow similar uses or similarly sized residences. Moreover, as noted above, any land use rules, policies, practices or procedures must be modified or waived as a reasonable accommodation where necessary to provide people with disabilities equal housing opportunity.

Neither licensing provisions nor fair housing laws forbid local governments from imposing restrictions or conditions, even on homes for six or fewer residents, as long as they are identical to those applied to other family dwellings of the same type in the same zone. Likewise, the provisions do not forbid application of ordinances dealing with health and safety, building standards, environmental standards, or other matter within the local public entity's jurisdiction—again, if the ordinance does not distinguish residents of licensed homes from persons who reside in other family dwellings in the same zone. The CCF Act was amended in 2006 to clarify that local governments may fully enforce local ordinances against housing licensed for six or fewer, including fines and other penalties, as long as the ordinances do not treat such housing differently than other single-family homes.[47]

3. "Overconcentration" Provisions

Many licensed homes are subject to so-called "overconcentration" restrictions. The CCF Act describes "the policy of the state to prevent overconcentrations of residential care facilities which impair the integrity of residential neighborhoods."[48] The section says that DSS "shall deny an application for a new residential care facility license if the director determines that the location is in a proximity to an existing residential care facility that would result in overconcentration," which is defined as a separation of less than 300 feet.[49] Certain health facilities (e.g., intermediate care facilities), licensed by DPH, are also subject to a 300-foot spacing requirement.[50] Congregate living health facilities, licensed by DPH, are subject to a 1,000-foot spacing requirement.[51] Separation requirements do *not* apply to residential care facilities for the elderly, drug and alcohol treatment programs, foster family homes, or transitional shelter care facilities.

It is noteworthy that California's spacing requirements were initially enacted well before 1988, when disability and familial status were added as protected classes to the federal Fair Housing Act and, thus, prior to conforming amendments made to the state's Fair Employment and Housing Act. Advocates point out that the concept of overconcentration and the characterization of housing for people with disabilities as "impair[ing] the integrity of residential neighborhoods" are antithetical to the goal of equal housing opportunity for people with disabilities who need the support provided by licensed residential care homes.

The same language of state and federal fair housing provisions that prohibit discrimination based on disability and familial status also prohibit discrimination based on other protected categories (e.g., race, religion, gender, national origin). Arguably, therefore, prohibitions on clustering or overconcentrations of homes for people with disabilities or children are no more valid than they would be with respect to households of African Americans, Jews, or other protected groups.

California's separation requirements have not been challenged under the federal FHAA. However, such requirements have, almost without exception, been struck down in litigation brought in other states.[52] Overconcentration provisions have been found to thwart efforts to treat people with disabilities as equal members of the community and to have a degrading effect on such persons' self esteem and self worth.[53] The conclusion of one federal court typifies the reasoning of these cases: "Simply put, the complaint of 'no more in my back yard' is just as unacceptable an excuse for discrimination against the handicapped as the discriminatory cry of 'not in my back yard.'"[54]

The overconcentration statutes authorize exceptions to spacing requirements based on special local needs and conditions.[55] This would include exceptions authorized as reasonable accommodations when necessary to afford equal housing opportunities to people with disabilities. Such accommodations could not lawfully be denied due to concerns of neighbors based on stereotypes about people with disabilities, and would have to be granted if they are reasonable and not burdensome to the municipality.

III. PUBLIC POLICY ISSUES

As discussed in the Introduction, the California Legislature and Congress have, in the past several decades, recognized that people with disabilities and children have a right to live as a part of, rather than apart from neighborhoods and communities. By necessity, this has led to an expanded need for accessible and affordable community-based housing and resources. And while community inclusion and integration have been widely accepted, largely without incident, there has been resistance, particularly in communities that believe that they have received more than their "fair share" of housing and services.[56]

The 2002 CRB Report (*see* Note 9) characterized the primary policy issues concerning residential care facilities as involving "a conflict between state (and federal) requirements to protect individuals from discrimination and local governments' right and responsibility to exercise control over its communities."[57]

In summarizing its policies and guiding principles with respect to housing for people with disabilities and others, the League of California Cities recently stated the following:

> The League supports permitting cities to exercise review and land use regulation of group home facilities and residential care facilities in residential neighborhoods including the application of zoning, building and safety standards. State and county licensing agencies should be required to confer with the city's planning agency in determining whether to grant a license to a community care facility. The League recognizes that better review and regulation of residential care facilities will protect both the community surrounding a facility and the residents within a facility from a poorly managed facility or the absence of state oversight.
>
> The League supports state legislation to require a minimum distance of 300 feet between all new and existing residential care facilities.[58]

With respect to housing for people with disabilities and for children, aspects of these policies and principles, including minimum distance requirements, are not reconcilable with state and federal fair housing law. As noted in the legislative history of the FHAA, while local government does have the authority to apply zoning, building and safety standards to housing for people with disabilities, to the extent that these requirements are not imposed on families and groups of similar size of other unrelated people, these requirements have the effect of discriminating against persons with disabilities and children. (*See* Note 16.) Improved communication between state and local licensing agencies and city planning agencies would be beneficial to assist local planning efforts. But, if the purpose is to determine "whether" to grant a license, then there would be clear interference with prospective residents' equal housing opportunity.

The CRB Report concludes that "there are no easy resolutions to the complicated ongoing issues around siting residential care facilities in the community. Some goals conflict, like local control and federal/state protections. In addition, some 'quality' issues are hard to legislate. . . . Resolutions that address and balance the needs of neighbors, the needs of residents needing services, and the needs of local government are difficult to identify and achieve."[59]

Not all approaches to addressing siting issues involve proposals to simply create greater obstacles to, or restrict, the development of group housing—such as spacing and density limits, neighbor notification requirements, and public hearing processes. Following are examples of efforts to at least begin addressing these complex issues—from California and at the national level—that offer alternative approaches, involving, for example, better information sharing, collaboration, quality monitoring, and community planning.

SCR 27 Care Facilities Task Force

Clustering, or "overconcentration," of housing for people with disabilities is one of the primary issues of contention among some local jurisdictions, community members, housing providers and advocates. One effort to analyze and make recommendations on this issue was the Care Facilities Task Force, established in 1997 pursuant to Senate Resolution 27.[60] The 16-member task force was comprised of local government representatives, service providers, and housing

advocates. The task force issued a report in January 1998.[61] The task force report is discussed in the CRB Report, which notes that:

> While members agreed on the need for reform, they disagreed on what direction such reform should take.
>
> Local officials supported legislative action that would allow greater local involvement (such as increasing the required distance between facilities, placing moratoriums on new facilities, and other measures that would limit facility expansions and prevent new facilities in communities that already had several facilities). In contrast, service providers who had experienced neighborhood resistance and proponents of fair housing opposed such action and stressed the importance of retaining existing state and federal fair housing protections and equal opportunities for facility residents. Fair housing advocates further maintained that existing laws allow persons with disabilities the right to choose where to live regardless of the number of persons with disabilities in a particular community, and that spacing and density restrictions violate these laws.[62]

As the CRB Report further notes, "[t]he task force concluded that there were no quick solutions to the complicated issues and concerns. Instead, they presented long-range recommendations that would promote quality residential care and a wider dispersal of residential care facilities."[63] The recommendations included pilot programs to try out new approaches and document their success and failure, and implementation of statewide mechanisms/activities to enhance quality of services while preserving neighborhoods.

The SCR 27 Report recommendations resulted in the introduction of a number of bills.[64] These met with limited success, but there were reportedly some favorable results, including a pilot program to encourage housing providers to work with neighborhood residents to resolve issues.[65]

Local Officials Guide

In the years following enactment of the 1988 amendments to the federal Fair Housing Act (FHA), the National League of Cities (NLC) led an effort to again amend the act to clarify how the FHA and local zoning authority interact with respect to residential care homes. In response, more than 50 civil rights, disability, fair housing and human services advocacy organizations came together to form the Coalition to Preserve the Fair Housing Act (Coalition) to oppose legislative efforts to water down the FHA's protections. This led to discussions between the NLC and the Coalition to discuss these issues. The joint statement from the U.S. Justice Department and the U.S. Department of Housing and Urban Development on group homes, local land use, and the Fair Housing Act (*see* Note 18) was one result of these discussions.

The NLC and the Coalition also jointly produced a guidebook, *Local Officials Guide*, on the siting of homes for people with disabilities and children, which, it was anticipated, would make legislation unnecessary.[66] The *Local Officials Guide* discusses the shared and divergent views of the NLC and the Coalition on a number of policy issues concerning the siting of housing for people with disabilities and children. There were disagreements related to such issues as

mandatory public notification and hearings versus the use of reasonable accommodation procedures, the appropriateness of "good neighbor" policy requirements, the application of spacing and density requirements, and the circumstances under which public safety concerns allow local regulating of residential facilities.

The NLC and the Coalition did identify numerous areas of agreement as well. These included, for example, the following:[67]

- Homes that are entitled to locate "by right" are not required to provide advance notification or be subjected to public hearing requirements.

- Notification requirements that are applied only to group homes violate the FHA.

- Local government officials and advocates should work together to educate existing neighbors and other stakeholders about the housing needs of all protected classes under the FHA, and the extent to which group homes fill a portion of this need.

- State and local governments should support ombudsmen, conciliation and alternative dispute resolution processes and make them available to all community stakeholders.

- Local governments have an obligation to promote equal housing choice for people with disabilities and at-risk children and should use tools to encourage the integration of residential facilities throughout the entire community, including the development of financial incentives.

- Only when other tools prove to be ineffective, and in unusual circumstances when homes are so densely clustered as to re-create an institutional setting (as occurred in *Familystyle, Inc. v. City of St. Paul* (*see* Note 52)), should courts allow a locality to enforce reasonable spacing restrictions designed to promote greater integration of homes throughout the greater community.

- Public safety is a critical concern, shared by public officials, neighbors, providers and residents of group homes. And communities have a duty and the responsibility to ensure the safety of all its members.

- Even-handed enforcement of rules designed to provide for community tranquility are not discriminatory under the FHA.

The *Local Officials Guide* emphasizes the importance of state and local long-range comprehensive plans, developed in consultation with community stakeholders, as important tools for balancing the needs of individuals with disabilities and others who require group housing and the needs of those who live in neighborhoods where such homes exist or could exist. Such plans are not specific to particular parcels but make long-range recommendations for the development of a general area. "A comprehensive plan should identify the needs of a particular community and display a commitment to meeting those needs. The plan should also seek the integration of group homes into neighborhoods throughout the community."[68]

The *Local Officials Guide* certainly does not resolve the important policy issues and differences related to the siting of housing for people with disabilities and children. But it exemplifies—as an alternative to legislative proposals that would weaken fair housing rights and impair equal housing choice—a constructive first step in identifying ways that local officials, neighbors, providers, and advocates can work collaboratively to ensure that the vital housing needs of people with disabilities and at-risk children are met while also meeting overall community needs.

Building Better Communities Network

The Building Better Communities Network website (http://www.bettercommunities.org) is an information clearinghouse and communication forum dedicated to building inclusive communities and to successfully siting affordable housing and community services. As described on the website:

> The Building Better Communities Network grew from the four year undertaking by the Campaign for New Community to build inclusive community. The Network was founded on the belief that welcoming communities are better communities, and that there are broad social benefits of diverse, collaborating communities that transcend the benefits to specific classes or individuals. The Network supports the expansion of housing and human services for all people and advocates for inclusive communities where civil rights are protected, diversity is celebrated, neighbors and community institutions collaborate for mutual support, and all members of the community are involved in planning for matters which affect their quality of life. We recognize the potential for conflicts and pledge ourselves to create the opportunity for a discussion in which all parties can be heard.
>
> Unlike many other organizations focused on creating housing or providing legal or financial assistance, the Network focuses exclusively on deepening the bonds of community and helping neighbors and community institutions collaborate and respond to the housing and service needs of people who are poor, homeless or who have disabilities.

The above initiatives are not offered as ultimate solutions but, rather, as a starting point for discussions and as potential models for ways of approaching complex public policy issues. People with disabilities and others who need supportive housing options will continue to be an ever-increasing presence in neighborhoods and communities. Developing approaches that start with the goal of YIMBY (Yes-In-My-Backyard) rather than NIMBY (Not-In-My-Backyard) will ultimately be to the benefit of all members of the community.

IV. RECOMMENDATIONS FOR FUTURE ACTIONS

A number of witnesses testifying at the February 18, 2009 informational hearing, and Committee members, offered recommendations for future legislation and other steps to address issues related to land use practices and decisions pertaining to housing for people with disabilities and children. This section

summarizes those recommendations, some of which the Assembly Committee on Human Services may wish to consider when addressing follow-up strategies related to issues raised at the hearing.

Recommendations

- Amend the state Fair Employment and Housing Act to explicitly require that local governments adopt a written reasonable accommodations process. While state and federal fair housing laws require reasonable accommodations in the land use process, the requirement that such procedures be in writing is explicitly stated only in the state's housing element statute. Compliance and enforcement would be facilitated by including such a requirement in the state fair housing statute.

- Amend the state Affordable Housing Accountability Statute[69] to include housing for persons with special needs. This statute currently applies to affordable housing developments, including farmworker housing, transitional housing and emergency shelters, requiring that, if a local government intends to deny a proposal or impose conditions that would render the development infeasible, it must make specific findings based upon evidence in the record.

- Ensure that the Department of Housing and Community Development is adequately reviewing and enforcing requirements that housing elements identify and analyze governmental constraints to the development, maintenance and improvement of housing for people with disabilities, as required by SB 520 (Chesbro), Chapter 671, Statutes of 2001.

- Utilize reasonable accommodation procedures instead of the conditional use permit (CUP) process to address land use issues involving housing for people with disabilities. CUP processes are a barrier to housing for people with disabilities: they are complicated, expensive, and encourage organized opposition. When it occurs, clustering of housing for six or fewer individuals is often the result of onerous CUP processes and other restrictions applied to the siting of housing for more than six persons even in zones where other larger residential uses are permitted.

- Provide education and training—for elected officials, local planning agencies, city and county attorneys, regulatory and enforcement agency staff, community members, and housing providers—on, for example, the housing needs of people with disabilities and children and the role of group housing to address a portion of that need, fair housing and land use laws and best practices related to housing for people with disabilities and children. The importance of doing training proactively, rather than after polarizing issues arise, was emphasized to better enable decision-makers to manage local opposition when it arises.

- Encourage and provide resources on the use of "good neighbor" policies by housing providers.

- Ensure better coordination and cross-training among state and local oversight and regulatory agencies. Consider joint or coordinated oversight and inspections of licensed housing.

- Create a comprehensive Internet website devoted to land use and fair housing issues related to housing for people with disabilities and children, including information on applicable law, best practices, available trainings, and research.

- Fund programs to provide technical assistance, facilitation and mediation to address local land use issues when they arise.

- Include funding for special needs housing in housing bond measures.

- Address concerns resulting from the expanding need for housing for people with disabilities and children by affecting the demand side—that is, reduce the demand for congregate living arrangements by promoting alternatives to congregate care, including placing more children with families and expanding opportunities for adults to live in their own homes.

NOTES

[1] The focus of this informational hearing is the siting of licensed and unlicensed group living arrangements for individuals with disabilities and children—that is, individuals who are protected under state and federal fair housing laws. Not addressed are issues related to populations not covered by fair housing laws, such as housing for parolees.
[2] Welfare & Institutions Code § 5358(a).
[3] Welfare & Institutions Code § 5358(c)(1).
[4] Welfare & Institutions Code § 4500 *et seq.*
[5] *Association of Retarded Citizens – California v. Department of Developmental Services* (1985) 38 Cal.3d 384, 388.
[6] Welfare & Institutions Code § 4502(a), (b).
[7] Source: http://www.dds.cahwnet.gov/FactsStats/Home.cfm. Most of the remaining individuals live with parents, guardians or family members or in their own homes. Approximately 3,800 people with developmental disabilities live in state institutions (developmental centers) or nursing facilities.
[8] California Department of Alcohol and Drug Programs, *Substance Abuse and Crime Prevention Act of 2000: Fourth Annual Report to the Legislature* (October 2005), p. 17.
[9] Foster, Lisa K., *Residential Care Facilities in the Neighborhood: Federal, State and Local Requirements* (California Research Bureau, California State Library, December 2002) (CRB Report); available at http://www.library.ca.gov/crb/02/18/02-018.pdf.
[10] Government Code § 12926(i), (k).
[11] 42 U.S.C. § 3601 *et seq.*
[12] Discrimination includes a refusal to rent or negotiate for "or otherwise make unavailable or deny" a dwelling unit; discrimination in the "terms, conditions, or privileges of a sale or rental" of a dwelling unit or in the "provision of services or facilities in connection therewith"; making or publishing any discriminatory statement in regard to a dwelling unit; or misrepresenting the availability of a dwelling.
[13] Terminology used to refer to people with disabilities has evolved since the *Cleburne* case. Terms such as "the retarded" or "retarded adults" have given way to so-called "people first" language, in recognition that people are not conditions or diseases. A child is not autistic but, rather, *has* autism or is a child *with* autism. A person is not retarded but, rather, has mental retardation or, more acceptably, has a cognitive disability or an intellectual disability. In most contexts, the term "handicap," which more appropriately refers to a physical or attitudinal constraint imposed upon a person, has given way to "disability." The latter change is reflected in the language of the federal Fair Housing Amendments Act of 1988 (which uses handicap) and the later-enacted Americans with Disabilities Act of 1990 (which uses disability).
[14] (1985) 473 U.S. 432, 461 (Marshall, J, concurring in part, dissenting in part).
[15] *Id.*
[16] H.R. Rep. No. 100-711, 100th Cong., 2d Sess. 24, *reprinted in* 1988 U.S. Code Cong. & Admin.News at 2173, 2185.
[17] Group homes for children are similarly covered by the FHAA under the provisions that prohibit discrimination in housing based on "familial status."

[18] *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*. Available at http://www.usdoj.gov/crt/housing/final8_1.htm.
[19] Examples of reasonable accommodations in land use and zoning are: Increasing the number of residents in housing for people with disabilities for economic or therapeutic reasons; extending the footprint of housing to make the interior accessible to wheelchairs; relief from side yard requirements to install ramps; reduction in parking requirements based on the number of residents who drive or have cars; waiver of concentration or dispersal rules. *Fair Housing Reasonable Accommodation: A Guide to Assist Developers and Providers of Housing for People with Disabilities in California*, Mental Health Advocacy Services, Inc. (February 2005).
[20] Government Code § 65583(a)(5).
[21] Government Code § 65583(c)(3).
[22] Department of Housing and Community Development web site at http://www.hcd.ca.gov/hpd/hrc/plan/he/sb520_hpd.pdf.
[23] 42 U.S.C. §§ 12131-12165.
[24] 29 U.S.C. § 794.
[25] California Government Code § 11135 provides protections against discrimination by the state or any entity receiving state funds that are at least as broad as Title II of the ADA. Government Code § 11135(b). Therefore, discrimination based on disability in land use and zoning activities would also violate state law.
[26] (1999) 527 U.S. 581.
[27] Government Code § 12900 *et seq.*
[28] AB 1234 (Calderon 1992), Chapter 182, Statutes of 1992; SB 2244 (Polanco 1993), Chapter 1277, Statutes of 1993.
[29] Chapter 1277, Statutes of 1993, Sec. 18.
[30] Government Code § 12955.6. FEHA is broader than the Fair Housing Act, for example, in also prohibiting discrimination in housing based on marital status, ancestry, sexual orientation and source of income. And while federal case law clarifies that discrimination under the Fair Housing Act may be established solely on the basis of discriminatory effect, this issue is explicitly addressed in California's statute. Government Code § 12955.8(b).
[31] Government Code § 65000 *et seq.*
[32] Government Code § 65008(a) and (b).
[33] Government Code § 65008(d)(2).
[34] Government Code § 65583(c).
[35] Government Code § 65583(c)(3).
[36] *Coaltion Advocating Legal Housing Options v. City of Santa Monica* (2001) 88 Cal.App.4th 451, 459-60.
[37] *Adamson v. City of Santa Barbara* (1980) 27 Cal.3d 123.
[38] Health & Safety Code § 1500 *et seq.*
[39] Health & Safety Code § 1569 *et seq.*
[40] Health & Safety Code § 1501(a).
[41] Health & Safety Code § 1569.1(g).
[42] SB 992 was substantially similar to AB 36 (Strickland 2006) and AB 926 (Chu)
[43] Health & Safety Code § 1250 *et seq.*

[44] Health & Safety Code § 1566.3 (community care facilities); *see also, e.g.*, Health & Safety Code § 1267.8 (residential health care facilities); Health & Safety Code § 1568.0831; and Health & Safety Code § 11834.23 (alcohol and drug treatment facilities).
[45] *E.g., Hall v. Butte Home Health* (1997) 60 Cal. App. 4th 308; *Broadmoor San Clemente Homeowners Assoc. v. Nelson* (1994) 25 Cal.App.4th 1.
[46] Federal courts in other jurisdictions have held, for example, that requirements for conditional use permits for larger licensed homes violate the FHAA. *E.g., ARC of New Jersey v. New Jersey* (D.N.J. 1996) 950 F.Supp. 637. The federal Ninth Circuit Court of Appeals (which includes California), on the other hand, held that a conditional use permit process, in itself, did not violate the FHAA in the case of a home that was too large for its lot and did not conform in size and bulk with other structures in the single family zone. *Gamble v. City of Escondido* (9th Cir. 1997) 104 F.3d 300. But the Ninth Circuit also held that a requirement that a special-use permit issued to a homeless shelter be subject to annual review violated the federal FHAA. *Turning Point, Inc. v. City of Caldwell* (9th Cir. 1996) 74 F.3d 941. The potential conditions that might change, rendering reasonable accommodations unreasonable at a later date, the Court said, could be handled under the ordinary law of nuisance and the city's power to declare and abate nuisances. *Id.* at 945.
[47] Health & Safety Code § 1566.3, SB 2184 (Bogh), Chapter 746, Statutes of 2006.
[48] Health & Safety Code § 1520.5(a).
[49] Health & Safety Code § 1520(a), (b).
[50] Health & Safety Code § 1267.9.
[51] Health & Safety Code § 1267.9(b)(2).
[52] *E.g., Children's Alliance v. City of Bellevue* (W.D. Wash. 1997) 950 F.Supp. 1491 (striking down a 1,000-foot spacing ordinance); *Larkin v. Michigan Protection & Advocacy Service* (6th Cir. 1996) 89 F.3d 285 (striking down a 1,500 spacing statute). The one exception—*Familystyle v. City of St. Paul* (8th Cir. 1991) 923 F.2d 91—in which a 1,320-foot spacing requirement was upheld, has explicitly been rejected outside of the Eighth Circuit. This was one of the earliest cases decided under the FHAA and it applied an incorrect, "rational basis," standard to the FHAA. *See, e.g., Larkin*. The facts were also quite extreme—involving a proposal to establish 21 group homes in a one-and-a-half block area.
[53] *E.g., Horizon House Developmental Services, Inc. v. Township of Upper Southampton* (E.D. Pa 1992) 804 F.Supp. 683, 691, *aff'd* 995 F.2d 217 (3d Cir. 1993).
[54] *Oxford House-C v. City of St. Louis* (E.D. Mo 1994) 843 F.Supp. 1556.
[55] *E.g.* Health & Safety Code § 1520.5(b).
[56] It must be noted, though, that for some neighborhoods, any housing for people with disabilities is too much. "Not in my back yard" often means "none in my back yard."
[57] CRB Report, p. 4.
[58] League of California Cities, *Summary of Existing Policy and Guiding Principles: Housing, Community and Economic Development.* (March 2008), p. 3.
[59] CRB Report, p. 5.
[60] SCR 27 (Kopp), Chapter 96, Statutes of 1997.
[61] California Senate Health and Human Services Committee, *Senate Concurrent Resolution 27 Resolution Report to the Legislature and the Governor* (January 31, 1998) (SCR 27 Report), available from Senate Publications, 1020 N St., Rm. B-53, Sacramento.
[62] CRB Report, p. 25.

[63] *Id.*
[64] *See* Appendix B; and CRB Report, Appendix C.
[65] AB 323 (Baca), Chapter 561, Statutes of 1997; *see* CRB Report, pp. 25-26.
[66] Whitman, Cameron & Parnas, Susan, *Local Officials Guide: Fair Housing: The Siting of Group Homes for the Disabled and Children* (National League of Cities 1999) (*Local Officials Guide*).
[67] *Local Officials Guide*, pp. 12, 15, 19.
[68] *Id.* at 23.
[69] Government Code § 65589.5