

Dear Laurie,

Please accept my apology for my delay in getting back to you regarding your request for the addresses of all our owned and leased program sites and the purpose for which we use the sites.

As you already know, most of Advocates' energies are spent developing housing and supports for people with disabilities. The people we support tend to need some measure of staff presence in order that they may live and fully participate in their communities like anyone else. Our philosophy, which is consistent with federal law, views this staff support as the equivalent of environmental modifications (such as ramps), that some people with physical disabilities require in order to fully participate in their community.

The fact that residents are also recipients of disability-related services requires particular accommodations in order to ensure the privacy of the residents and the protection of their confidential medical information. In fact, as you may be aware, the Executive Office of Health and Human Services ("EOHHS") has addressed the precise request for addresses of group homes that you have made to us. EOHHS, which is the agency which funds and regulates our programs, has stated that to "provide the addresses of individual community residences or group homes . . . would violate the privacy rights of the residents, and in effect identify them by disability or health status." The opinion of the agency's General Counsel (copy below) concludes that "this legal position would apply equally to the information requests being posed by the PILOT group in Framingham."

Additionally, we have consulted with our attorneys, who have been clear that numerous federal and state discrimination, privacy and confidentiality laws would be implicated if we should reveal information about where our clients live, or what services we provide them. These statutes include the federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA"); the Massachusetts Privacy Act; the federal Fair Housing Act; the Massachusetts Antidiscrimination Act; and the Massachusetts Fair Information Practices Act. In light of the position of EOHHS and the provisions of these statutes, we would strongly encourage you to consult with Town counsel on these issues.

In addition to the fact that we cannot provide all of the information you seek, we have an additional concern regarding addresses of group homes serving disabled residents. For example, if the Town were to come into possession of such information from a source other than our organization, we would have a significant concern with any steps the Town might take to make that information publicly available. While I do not question the town's motives, the motives of some residents of the town, as expressed in public forums, are most worrisome to us. You may also want to consult town counsel about potential discriminatory (even if unintentional) violations of privacy or the federal Fair Housing Act, if this information were to be disseminated by the Town.

Because the following information does not implicate the privacy and discrimination concerns outlined above, we can tell you where our offices and clinics are located.

One Clarks Hill; Suite 305: This is our new main office as of April 2005. It is leased and approximately 15,000 square feet.

27 Hollis Street: This is the site of our mental health clinic, our psychiatric emergency service team, and several program related offices. We have owned this building since 2000. We leased this space from 1990 until 2000. Our main office was here until we moved to Clarks Hill. It is approximately 13,000 square feet excluding the basement. We are currently planning to sell this building and lease nearby.

18 Irving Street: This office houses residential program offices. It is leased and approximately 1900 square feet.

661 Franklin Street: This office houses residential program offices. It is leased and approximately 2000 square feet.

Here is what we can tell you about our residential programs. All of our residential programs in Framingham are for people recovering from mental illness or people with developmental disabilities. Some are deaf; some have additional or multiple disabilities.

Advocates supports 115 people in 18 “group homes” in Framingham. Between 3 and 9 people live at each in each home. We own 9, and we lease 9 homes.

Advocates supports 36 people in Framingham recovering from mental illness in their own homes and apartments. In this model we serve individuals, and very occasionally, couples. We, or our clients, lease 34 of these homes/apartments. Advocates owns 2 of these homes. Staff are only on-site “when needed”.

Advocates supports 18 people with developmental disabilities in “shared living” programs in Framingham. In this model local families accept into their home an adult with developmental disabilities. Advocates provides training and support to the individual and the family. We neither lease, nor own in this model.

Finally Advocates owns 20 Vernon Street and is waiting to hear in November about a HUD grant that will provide \$1.2M to renovate the property into

apartments for people with disabilities, and who currently are experiencing loneliness living by themselves in their own apartments in the area.

Advocates also owns 76 Clark Street, which is currently being renovated, and once renovated will continue to serve people with disabilities, as it has for over two decades.

Having responded as best we could to your specific question on the location of our facilities, I also wanted to take this opportunity to share some thoughts with you on some of the underlying assumptions informing the work of your Committee. From our perspective, any discussion of the “impact” of social service agencies must take into account the lives transformed, the jobs created, and the money expended locally.

Every day people with serious disabilities take meaningful steps toward self sufficiency and self determination. Families learn how to support one another, and individuals learn how to support themselves. Every day employers learn the value of employing people with disabilities, and people with disabilities learn the value of work.

Economics teaches us that jobs and spending matter to local economies. Advocates employs 280 people in Framingham. Much of the \$13 million spent on those salaries is in turn spent in Framingham. An additional \$2 million in corporate expenses is also spent at Framingham businesses.

The discussion should also take into account the economic and qualitative impact on communities, families and individuals, if these programs and services did not exist. Disabilities, alcoholism, drug addiction, aging, illness, abuse, neglect, depression, homelessness and poverty would all remain. They would remain and grow without remission or intervention other than that which an already overwhelmed criminal justice system might offer. What then would be the quality of the community?

It is also important to stress that in analyzing the “impact” of services for handicapped individuals, we are not writing on a clean slate from a legal perspective. When Congress passed the American with Disabilities Act in 1990, there was long debate about “cost”. The clearest manifestation of that cost was the physical modifications to be required of state and local governments and businesses. Congress decided that the cost to make America accessible for people with all disabilities was worth the investment, so much would people with disabilities add to communities across America. The issue of cost/benefit has been addressed and decided by Congress. We believe that to now focus upon the individual homes of people with disabilities in an attempt to assess the specific community impact/cost is not only morally wrong (people with disabilities would experience a public community focus on their behavior and medical

needs), but that it would clearly be found a violation of privacy interests and civil rights under federal and state law.

The ADA, as written by Congress, and interpreted by the Supreme Court's Olmstead decision in 1999, and as trumpeted in the President's New Freedom Commission requires, not only that discrimination be stopped, but that municipalities affirmatively take steps to modify and relax ordinances and zoning rules to make it easier for people with disabilities to settle in neighborhoods. "The ADA also parallels § 504 in that it not only prohibits discrimination, but also affirmatively obligates covered entities to undertake the types of reasonable accommodations necessary to make their benefits and services accessible."—Kaiser Commission, Olmstead at Five: Assessing the Impact.

In short, long established federal law supports our view that these homes for people with disabilities are simply homes like any other homes and that municipalities are required to make reasonable accommodations to affirmatively promote the national policy of encouraging disabled residents to live with maximum independence in every community.

I hope that you find this information useful and illustrative about the work we do in Framingham, and I also hope that your Committee takes into account our perspective on the overall economic issues as expressed in this letter.

EOHHS EMAIL ABOUT PRIVACY AND GROUP HOME ADDRESSES

From: Apgar, Kristen (EHS) [<mailto:Kristen.Apgar@state.ma.us>]

Sent: Thursday, October 06, 2005 3:50 PM

To: Blumer, Deborah - Rep. (HOU)

Cc: Powers, Richard (EHS); Kadish, Steve (EHS); Sullivan, Courtney (EHS); Kiely, Ed (EHS); Bill Taylor

Subject: Information Request Regarding Community Residences in Framingham

Dear Representative Blumer,

Undersecretary Steve Kadish asked me to respond to your inquiry on the extent of information which is publicly available on social services group homes and community residences. My response is based on the recent e-mails from you and from Bill Taylor to Steve Kadish, regarding the PILOT program in Framingham.

As I am sure you are aware, EOHHS periodically is asked to identify the addresses of specific community residences or group homes operated by the Departments of Mental Health, Mental Retardation, Transitional Assistance, and the Department of Public Health or their contracted agencies. Our consistent legal position on these requests is that we will provide a listing of the number and types of such programs sited in each city and town by agency, but we will not provide the addresses of the residences. We will also provide a listing of the addresses of the corporate offices of the agencies and vendors that operate programs in a community. We do not provide the addresses of individual community residences or group homes, because in our

opinion to do so would violate the privacy rights of the residents, and in effect identify them by disability or health status. I believe that this legal position would apply equally to the information requests being posed by the PILOT group in Framingham.

The Framingham's PILOT group is also asking questions regarding property tax and zoning status of such residences in the Framingham. Under MA law, not-for-profit corporations, which can include schools, hospitals, churches and as well as social service agencies, are exempt from local property tax. In addition, community residences and group homes have been deemed to be like schools, colleges and houses of worship and are largely exempt from local zoning requirements, under G.L. c. 40, § 3, the so-called Dover Amendment.

I hope this is helpful information. Please do not hesitate to contact me if you wish further information from this office. As I am certain you know, EOHHS takes very seriously its obligations to the many Massachusetts residents served in communities by our agencies.

Sincerely,

Kris Apgar

Kristen Reasoner Apgar

General Counsel

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Thank you,

Bill

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Advocates at 30...A Celebration of People, Services and Commitment

First, We Listen

Our Mission: Advocates' mission is to assist people with disabilities or other individual challenges to overcome personal obstacles and societal barriers to obtaining homes, meaningful work, satisfying relationships and to living the fullest possible lives, while inspiring our communities to create opportunities for contribution and participation by all.