# A Call For Change In Group Home Site Selection Law

by Corey Bearak. A Bellerose attorney, Mr. Bearak serves as counsel and chief of staff to City Councilman Sheldon Leffler and is active in the Eastern Queens Civic Council and on the steering committee of QUEST, the group considering Queens' secession from the city. He is President of the Northeast Queens Jewish Community Council, the Queens County Line Democratic Association and the North Bellerose Civic Association.

Recent announcements of plans to site group homes and other similar facilities in eastern Queens highlight the need to change the existing process. This current procedure denies any real opportunity for community members to get their concerns addressed.

I had attended numerous public hearing and meetings over the placement of group homes. After attending a meeting on the siting of a group home in Little Neck in 1988, I observed, first hand, how the provisions of Section 41.34 of the State Mental Hygiene Law governing the siting of group homes, needlessly exacerbates community tensions. Rather, the process should serve to mitigate community concerns.

The need exists to improve the opportunity for input and review and to provide accountability in the siting of state-licensed group homes, also known as community residences. As a neighborhood activist and as an attorney with extensive experience in government at both the state and city levels, I propose that the state law be amended to require the state agency which licenses the proposed facility in a community to:

1. notify affected community members;
2. hold a public hearing in the community near the proposed facility;
3. provide a 60-day comment period following the public hearing;
4. provide residents the opportunity, presently afforded community boards under existing law, to propose alternate sites; and
5. mandate that the community be able to present arguments of over-saturation but, unlike the current law, consider the existence of all types of community facilities which may impact a neighborhood.

This five point plan can stop the practice that pits neighbor against neighbor. The existing procedure has the unintended affect of putting neighborhood residents who serve on a community board in the position of approving a group home near many of their neighbors.

Existing law gives local community boards very little ability to say yes or no. Presently, a community board can either approve the site recommended by the agency sponsoring, for example, a group home; suggest one or more alternate sites; or object 1) based on the over-saturation of the community board (not the community within the board) with community residences or facilities or 2) based on the over-saturation of the same kind of group homes in the area in proximity to the proposed facility.

As a result, most people come away from the community board public hearing with the sense that the decision was really made before the hearing started. My approach stops that sham hearing and substitutes a real hearing that solves problems, not makes them worse.

My approach also affords a facility's sponsoring agency ample time to schedule meetings and informal gatherings with community leaders, concerned residents and local officials. In this manner, community concerns can be addressed, perhaps in a series of smaller groupings. Agencies could reach out to communities in an atmosphere less threatening to the community. This contrasts with the large turnouts and accompanying outcry against facilities, such as group homes, at community board hearings. Too often, this engenders so much distrust that the community and the sponsoring agency start even farther apart once a facility is established.

Unlike the lengthy reviews mandated under the City's Uniform Land Use Review Procedure (ULURP), Section 41.34 provides only 40 days for a community board to 1) schedule a hearing with adequate mail and newspaper notices, 2) look at any alternate sites, and 3) make its decision.

In contrast to the state process for review of group homes, the City review process for any facility affords a community board 60 days to hold a hearing and pass its decision onto the City Planning Commission and the City Council. The Borough President can also hold a hearing and make a recommendation to the City Planning Commission and the Council. In addition, a commnity board can receive early - informal - notice that an application is being initiated under the City review process. This presents an early opportunity to look at a proposal as needed.

A fair opportunity for community review should facilitate a dialogue among the paries. Under the current state law, heated hearings remain the rule rather than the exception. Residents complain that the sponsoring agency overpays for the property, that the site is unsuitable for the proposed use and that the characteristics of some of the possible residents of the proposed facility pose real concerns about safety.

Under my proposal, the licensing state agency commissioner's designee would review the site based on the testimony presented, including presentations on saturation and alternate sites, and make a presentation to the commissioner.

My proposal also gives residents an opportunity to simply say yes or no.

In addition, I recommend a prohibition on the acquisition of any proposed site at a cost greater than the market value of any property based upon its zoned or intended use.

Any process where tensions become so great and at which unruly proceeding remain the rule, rather than the exception, is but a great sham and merits change. My proposal brings change and, more importantly, offers a meaningful process for considering state-licensed facilities proposed for our neighborhoods in residential areas.