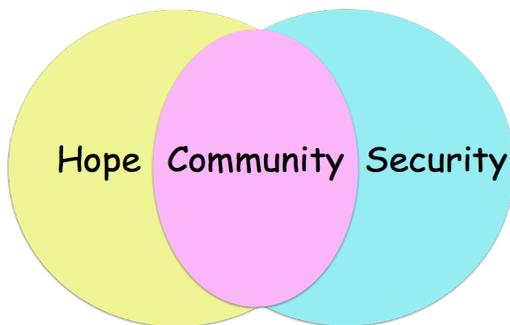


At the end of the day . . .

An informal survey of homeowners of the neighborhoods affected by the new group homes in Williamsburg and James City County indicates that people are not concerned about non-violent group home residents who are hoping for a new start. Homeowners want to achieve that goal, however, without jeopardizing the security of their families and community.

There is a sensible balance, but it requires notice to, and input from, community leaders and residents—not secretly opening a group home in neighborhoods without any notice to residents, community leaders or even the local community services board.

Lack of transparency breeds fear and animosity.



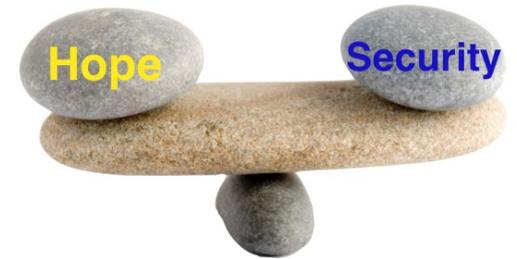
¹ Police Report obtained through Freedom of Information Act request.

² *Id.*

³ *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581, 607 (1999) (emphasis added).

⁴ See, e.g., *City of Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 442–43 (1985).

⁵ See *Madsen v. Women's Health Ctr., Inc.*, 512 U.S. 753, 768 (1994) (noting that the State “has a strong interest in ensuring the public safety and order . . . and in protecting the property rights of all its citizens.”); see also *Cleburne*, 473 U.S. at 446 (“To withstand equal protection review, legislation that distinguishes between the mentally retarded [and mentally ill] and others must be rationally related to a legitimate governmental purpose.”); *id.* at 442-443 (Those who are mentally ill range from those whose disability is not immediately evident to those who must be constantly monitored and cared for. “How this large and diversified group is to be treated under the law is a difficult and often a technical matter, very much a task for legislators guided by qualified professionals and not by the perhaps ill-informed opinions of the judiciary.”).



Senate Bill 1373

Finding a common sense balance between hope and security for group homes



Did you know a resident of a group home publicly committed suicide on Thanksgiving day by hanging herself from the children's playground equipment in a common area surrounded by homes with young children?¹

Did you know this unfortunate victim—who clearly was not ready to be in a group home—was absent from the group home for over three hours and missed two scheduled medication doses? The police report indicates that that nobody began to search for her until they found a suicide note on her bed.²

Did you know that this victim was a resident of one of two group homes that were opened in residential neighborhoods without any prior notice to local government officials, including the head of the local community services board?

Common sense legislation for group homes

Group homes for the mentally ill are here to stay. We understand that. But mental illness involves a unique intersection between disability and criminality that most other disabilities do not.

Under the mainstreaming mandate of *Olmstead v. L.C. ex rel. Zimring*, Title II of the ADA requires States “to provide community-based treatment for persons with mental disabilities *when the State's treatment professionals determine that such placement is appropriate . . .*”³

SB 1373 does not stand in the way of *Olmstead* or subject the Commonwealth to liability under that opinion. It simply

- requires timely notice to local government and affected HOAs when an entity plans to operate a group home in their community;
- prohibits the Commissioner from issuing a license to a group home if it will be within ½ mile of a daycare or K-12 school if it will house persons who present a clear and present threat to the health or safety of other individuals; and
- requires a staff to resident ratio of 1:2 for any home that houses persons who are a danger to themselves.

This **helps** the Commonwealth ensure that placement of individuals comports with *Olmstead's* mandate that “such placement is appropriate.”

Is it legal? **YES**

- Mental Illness is not a suspect classification calling for exacting judicial review of economic and social legislation.⁴
- Even so, SB 1373 does not discriminate against anyone on the basis of mental illness. It simply distinguishes between nonviolent residents and violent residents who present a clear and present danger to themselves and others. This is a core function of state and local government.⁵
- SB 1373 does not implicate the Fair Housing Act because it has nothing to do with the sale or lease of homes.

House Joint Resolution 720 is not the answer

HJ 720 proposes a nine month study by the Department of Behavioral Health to determine whether the same notice and safety provisions contained in SB 1373 are necessary. Respectfully, it does not take nine months to decide these limited issues.

If, however, the General Assembly in its wisdom believes a study should be performed, it should amend HJ 720 to require consultation with, and input from, members of the general public.