

SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT
LAW DOCKET NO. Ken-80-39

PENOBSCOT AREA HOUSING DEVELOPMENT CORPORATION, et al.,
Appellants,

v.

WILLIAM L. WETHERBEE,
CODE ENFORCEMENT OFFICER, et al.,
Appellees.

On Appeal from the Superior Court for
the State of Maine, Kenebec, ss.

MOTION FOR LEAVE TO FILE BRIEF AMICI CURIAE

AND

BRIEF AMICI CURIAE ON BEHALF OF
THE NATIONAL ASSOCIATION FOR RETARDED CITIZENS, INC.,
THE ASSOCIATION FOR RETARDED CITIZENS/MAINE, INC.
AND THE ADVOCATES FOR THE DEVELOPMENTALLY DISABLED

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MOTION FOR LEAVE TO FILE BRIEF AMICI CURIAE

The National Association for Retarded Citizens, Inc. (NARC), Association for Retarded Citizens/Maine, Inc. (ARC/Maine) and the Advocates for the Developmentally Disabled hereby move this Court pursuant to Rule 75A(f) of the Rules of Civil Procedure for leave to file the attached brief as amici curiae in the above-entitled appeal. Appellants have consented to the filing of such a brief (see letters at pp. 21 and 22), but appellees have withheld their consent.

NARC is a voluntary, nonprofit organization founded in 1950, with a present individual membership of nearly 300,000, devoted to improving and promoting the welfare of mentally retarded children and adults. NARC has approximately 1900 member state and local associations in 48 of the 50 states and the District of Columbia. ARC/Maine, organized in 1958, is the Maine state affiliate of NARC and, like

NARC is a voluntary, nonprofit organization devoted to serving the interests of mentally retarded citizens.

A principal objective of NARC and its many affiliates, including ARC/Maine, is to encourage the adoption and implementation of laws and policies designed (1) to secure the basic civil rights of mentally retarded citizens to freedom from unnecessary restraints on personal liberty and from unnecessary segregation, and (2) to promote laws and policies which foster the individual personal development of these citizens to the maximum extent possible. To accomplish these objectives, NARC and its many affiliates have been extremely active in promoting the twin policy objectives of limiting unnecessary institutionalization and "normalization" -- policy objectives described in greater detail in the attached brief -- through the establishment of community-based residential programs which make it possible for retarded citizens to live in as normal a residential setting as possible. Thus, on July 22, 1978, NARC's Board of Directors adopted a policy statement as follows:

The lives of mentally retarded citizens can be greatly enriched by living in communities and receiving appropriate services in those communities. However, restrictive zoning ordinances and/or other exclusionary devices impede the development of residential facilities for mentally retarded persons. It is the policy of the National Association for Retarded Citizens, therefore, to encourage its state and member local units to promote passage of state and other legislation which would prohibit ordinances that prevent retarded citizens from exercising their rights to community living as well as their right to life, liberty, and the pursuit of happiness. NARC also encourages its state and member local units to utilize all appropriate legal resources in support of this principle.

The Advocates for the Developmentally Disabled is the organization designated by the State of Maine to protect and advocate for the rights of mentally retarded and other developmentally disabled citizens of the state pursuant to the requirements of the Developmentally Disabled Assistance and Bill of Rights Act, 42 U.S.C. § 6001 et seq. The Advocates for the Developmentally Disabled is charged by federal statute with pursuing "legal, administrative and other appropriate remedies to insure the protection of the rights of [mentally retarded and other developmentally disabled] persons...within the state." Developmentally Disabled Assistance and Bill of Rights Act, 42 U.S.C. § 6012. Like NARC and ARC/Maine, the Advocates for the Developmentally Disabled have been active in encouraging the adoption and implementation of laws and policies to secure the basic civil rights of the mentally retarded citizens of Maine. The Advocates have promoted the establishment of small community-based facilities, including group homes, in order to provide care and habilitation to Maine's mentally retarded citizens in as normal a setting as possible and in the manner least restrictive of the individual's civil rights. They thus help implement the congressional mandate that:

The treatment, services, and habilitation for a person with developmental disabilities should be designed to maximize the developmental potential of the person and should be provided in the setting that is least restrictive of the person's personal liberty.

Id. at 6010.

In this case, the City of Brewer has interpreted its local zoning ordinance so as to exclude a family-like group home for six mentally retarded persons from areas in the City zoned for single families.

The group home was excluded despite extensive evidence that the home would, in fact, function as a single-family unit within the definition in the Brewer ordinance. No evidence was presented and no findings were made by the court below that the home would in any way disrupt the community or create additional traffic or noise or in any way interfere with the neighbors' full use and enjoyment of their land. Thus, no legitimate zoning justification for the exclusion of this group home from Brewer has been presented to this Court.

If the decision below affirming the City's actions is permitted to stand, it will preclude the location of this or other group homes in those areas of Brewer most suitable for the location of such a home. Moreover, it will constitute an adverse precedent in other cities and towns throughout Maine which have enacted similar zoning ordinances, thus jeopardizing the ability of the mentally retarded citizens of Maine to obtain the benefits and opportunities of living in group homes in residential neighborhoods. Accordingly, the issues presented by this appeal are of far-reaching significance to the mentally retarded persons and their families represented by NARC, ARC/Maine and Advocates for the Developmentally Disabled.

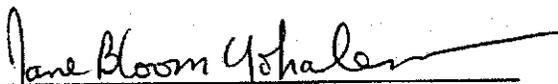
Because of their extensive experience with the needs and capabilities of retarded citizens and because of their involvement in the development of law and policy concerning zoning both nationwide and within the State of Maine, NARC, ARC/Maine and Advocates for the Developmentally Disabled believe they can be of service to the Court by providing the Court with a different perspective on some aspects of the issues before the Court discussed in the attached brief amici curiae. In particular, amici will provide information on the needs and

capabilities of mentally retarded persons, on the importance of group homes to meet these needs and on national and state policies which support the elimination of zoning restrictions like that at issue here. These issues are not fully discussed in the briefs of the parties.

This motion and brief are being timely filed on November 10, 1980, within 14 days after the date the appellees' brief was filed, pursuant to requirements of Rule 75(A(f) of the Rules of Civil Procedure.

WHEREFORE, for the foregoing reasons, the National Association for Retarded Citizens, the Association for Retarded Citizens/Maine and the Advocates for the Developmentally Disabled request this Court to grant them leave to file the accompanying brief as amici curiae.

Respectfully submitted,


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I. INTRODUCTION

Amici, in this brief, seek to provide this Court essential background information on the needs and capabilities of mentally retarded persons, on the importance of group homes to meet these needs and on state and national policies which support the elimination of zoning restrictions like that at issue here.

The question pending before this Court is whether the City of Brewer can lawfully use its zoning authority to exclude a small, family-like group home for six mentally retarded persons from single-family residential areas of that city. However, what is truly at issue before this Court extends far beyond this narrow question. At issue

here is the right of Maine's mentally retarded citizens to live and participate in ordinary communities, as do other citizens. The location of group homes in single-family zones is essential to achieving the twin objectives of maximizing the development of all mentally retarded persons and minimizing the restrictions imposed on the personal liberty of mentally retarded citizens. These objectives have consistently been advocated not only by the amici but by mental disability professionals generally, have been recognized in federal legislation and have been adopted as the policy of the State of Maine both in statute and in a federal court decree.

This federal and state law and policy encouraging the location of group homes for mentally retarded persons in residential neighborhoods can easily be frustrated by unjustifiable and discriminatory exclusionary zoning laws and practices, such as those employed by appellee City of Brewer. The facts before this Court show that the proposed Brewer group home was excluded from areas of the City zoned for single families despite extensive evidence that the home would, in fact, function as a single-family unit within the definition in the Brewer ordinance. No evidence was presented and no findings were made by the Court below that the home would in any way disrupt the community or create additional traffic or noise or in any way interfere with the neighbors' full use and enjoyment of their land. Thus, the City of Brewer reached beyond legitimate zoning concerns to impose conditions on the location of the proposed group home irreconcilable with the right of Maine's mentally retarded citizens to live in the community, and irreconcilable with the state and federal law and policy supporting that right. The City's decision must not be allowed to stand.

II. MENTAL RETARDATION IS A DEVELOPMENTAL OR LEARNING DISABILITY, NOT AN ILLNESS, AND MOST PERSONS SUFFERING FROM MENTAL RETARDATION CAN, WITH APPROPRIATE TREATMENT AND HABILITATION, BECOME FUNCTIONING AND CONTRIBUTING MEMBERS OF SOCIETY.

At the outset, it is useful to note two myths about mentally retarded persons that often result in the unjustified exclusion of group homes for mentally retarded persons from single-family residential areas.

First, resistance to the establishment of group homes is, at least in part, attributable to fears that mentally retarded persons in a community may represent a danger to their neighbors. That, however, is simply not the case. Mental retardation is a developmental or learning disability. The term refers to "subaverage intellectual functioning which is associated with impairment in adaptive behavior." Wyatt v. Stickney, 344 F. Supp. 387, 389 n.2 (M.D. Ala. 1972), aff'd sub nom. Wyatt v. Aderholt, 503 F.2d 1305 (5th Cir. 1974). In plain English, retarded persons learn slowly. That is the principal difference between a retarded citizen and his nonretarded peers. Mental retardation is not a disease and is not comparable to mental illness. Individuals who are mentally retarded pose no more danger to society than anyone else. To be sure, retarded persons, like anyone else, can also suffer from any and all of the other assorted ills and misfortunes of mankind generally. But they are neither more nor less likely than anyone else to present a threat to their neighbors.

Second, in order to understand the importance of allowing group homes for mentally retarded persons to locate in normal residential communities, it is necessary to understand that, contrary to popular misconception, mental retardation is not an immutable or static disability that ordinarily leaves its victims incapable of acquiring the skills necessary to become productive, participating members of society. On the contrary, as Judge Johnson recognized in Wyatt v. Stickney, 344 F. Supp. at 389 n.2:

The historic view of mental retardation as an immutable defect of intelligence has been supplanted by the recognition that a person may be mentally retarded at one age level and not at another; that he may change status as a result of changes in the level of his intellectual functioning; or that he may move from retarded to non-retarded as a result of a training program which has increased his level of adaptive behavior to a point where his behavior is no longer of concern to society. See United States President's Panel on Mental Retardation, Report of the Task Force on Law, 1963.

In other words, the mentally retarded are capable of growth and development, both intellectual and social, if given "adequate and suitable treatment." See Welsch v. Likins, 373 F. Supp. 487, 495 (D. Minn. 1974). In fact, many individuals who are regarded as mentally retarded in their early years grow and develop sufficiently to shed this label, see Roos, "Basic Facts About Mental Retardation," in Legal Rights of the Mentally Handicapped 17, 21 (Ennis & Friedman eds., 1973); and, with proper programs, most individuals who are regarded as mentally retarded can learn the skills necessary to play a productive, rewarding role as a citizen in the community. See Mills v. Board of Education, 348 F. Supp. 866, 782 (D.D.C. 1972); Penn-

sylvania Ass'n for Retarded Children v. Commonwealth, 344 F. Supp. 1257, 1259 (E.D. Pa. 1971).

III. THE PLACEMENT OF MENTALLY RETARDED PERSONS IN RESIDENTIAL GROUP HOMES, SUCH AS APPELLANTS' PROPOSED BREWER RESIDENCE, IS AMONG THE MOST EFFECTIVE MEANS OF ACCOMPLISHING THE TWIN NATIONAL AND STATE OBJECTIVES OF "NORMALIZATION" AND ENDING UNNECESSARY INSTITUTIONALIZATION IN TREATMENT AND HABILITATION OF THE MENTALLY RETARDED.

NARC, ARC/Maine and NARC's other member associations, have long been committed to two central goals for the mentally retarded: (1) development of each mentally retarded individual to his or her potential; and (2) permitting mentally retarded citizens to live in our society free from unnecessary restrictions on their personal liberties and unnecessary segregation. To accomplish these objectives, these organizations, backed by professionals in the field of mental disability, have waged a campaign to place as many mentally retarded individuals as possible in noninstitutional, community-based living environments. In particular, both NARC and ARC/Maine have advocated the widespread establishment of group homes in normal residential areas in order to provide mentally retarded individuals with the optimal conditions for their personal growth and development. The Advocates for the Developmentally Disabled have also been strong supporters of community-based living for mentally retarded persons.

Congress has given recognition to both the capability of the mentally retarded to grow and develop if given appropriate treatment and habilitaiton, and the right of such persons to the greatest personal liberty consistent with such treatment and habilitation. In the

Developmentally Disabled Assistance and Bill of Rights Act, 42 U.S.C.

§§ 6001 et seq (1976), Congress specifically found, inter alia, that:

(1) Persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for such disabilities.

(2) The treatment, services, and habilitation for a person with developmental disabilities should be designed to maximize the developmental potential of the person and should be provided in the setting that is least restrictive of the person's personal liberty.

Id. § 6010 (emphasis added). These congressional findings accord with the goal established by the President's Committee on Mental Retardation to return no less than one-third of all mentally retarded individuals from institutions to "useful lives in their communities." Exec. Order No. 11776, 39 Fed. Reg. 11,865 (1974), reprinted in 42 U.S.C. at 1936 (1976).

Professionals in the field of mental disability and groups interested in ensuring that mentally retarded persons receive effective and humane "treatment, services, and habilitation" have consistently recognized in recent years that maximization of the developmental potential of the mentally retarded, the first policy articulated by 42 U.S.C. § 6010(2), can be accomplished most effectively by maximizing the "normal societal integration and interaction"^{1/} of these individuals. See generally Wyatt v. Stickney, supra, at 396 (¶ II(2));

^{1/} See American Bar Association Commission on the Mentally Disabled, Developmental Disabilities State Legislative Project, Zoning for Community Homes 1 (1978) ("ABA Commission Zoning Report"), citing Nirje, "The Normalization Principle," in Changing Patterns in Residential Services for the Mentally Retarded 231 (Kugel & Shearer eds. 1976).

Little Neck Community Ass'n v. Working Organization for Retarded Children, 383 N.Y.S.2d 364, 367 (App. Div. 1976). Thus, the American Bar Association's Commission on the Mentally Disabled reported to the Association's House of Delegates in 1977 that it is

[t]he prevailing view of mental health leaders and professionals that care and treatment of mentally disabled adults and children should, to the greatest extent feasible, be carried out in natural community settings.

ABA Commission on the Mentally Disabled, Report to the House of Delegates 2 (1977) ("ABA Report to Delegates"). Moreover, this now accepted approach, referred to as "normalization," is reinforced by the second goal established by 42 U.S.C. § 6010(2), minimizing unnecessary restrictions on the personal liberty of retarded individuals. See Roos, supra, at 23-24. Normalizing the lives of mentally retarded persons can be accomplished most effectively by providing these individuals with the maximum possible degree of personal freedom along with the minimum segregation from other members of society, i.e., "the least restrictive conditions necessary to achieve the purposes of habilitation." See Wyatt v. Stickney, supra, at 396 (¶ 3(a), (c)). Hence, removing such individuals from the confines of and restrictions imposed by unnecessary institutionalization,^{2/} is inextricably linked with "normalization."

^{2/} See Report to the Congress by the Comptroller General of the United States, Returning the Mentally Disabled to the Community: Government Needs to Do More 1 (1977), summarized in 11 Clearinghouse Rev. 120 (1977).

The national objectives of normalization and ending unnecessary institutionalization are echoed in the law and policy of the State of Maine. The decree in Wuori v. Zitnay, No. 75-80 SD (D. Me., July 14, 1978), agreed to by the State and adopted by the federal district court for Maine, strongly endorses the principles of normalization and mandates that sites for homes in the community for mentally retarded people "shall be normal for the community in which they are located and with ample opportunity for interaction with the community." Wuori v. Zitnay, Consent Decree, Appendix B, § C 12. Each mentally retarded person covered by the decree's terms has a right to be provided "the least restrictive and most normal living conditions appropriate for that [individual.]" Id. at Appendix B, § F 1. Further, the decree requires the state to "make every attempt" to move mentally retarded persons to facilities "integrated in community living" whenever feasible for that individual. Id. at Appendix A, §§ A(3) and (4).

Maine statutes relating to the care and treatment of the mentally retarded similarly recognize the right of mentally retarded persons to live in a normal a community setting as possible, consistent with their needs for care and habilitaiton. Perhaps the clearest statement of the normalization principle is included in 34 M.R.S.A. § 2601:

It is further the policy of the State that the setting for [residential, educational, or other services for mentally retarded persons] shall, consistent with adequate care and treatment:

A. Impose the fewest possible restrictions on the liberty of mentally retarded persons; and

B. Be as close as possible to the patterns and norms of the mainstream of society.

Thus, the State of Maine, consistent with national policy and with professional opinion, has adopted as state policy both normalization and bringing an end to unnecessary institutionalization.

To accomplish these twin objectives of "normalization" and ending unnecessary institutionalization, professionals in the field of mental disability, without significant exception, advocate adoption of community-based programs for a substantial number of mentally retarded persons.^{3/} Such programs provide a "culturally normative" living environment and thus enable mentally retarded persons to establish and maintain "normal" personal behaviors and characteristics. See W. Wolfensberger, Normalization 28 (1972). The most feasible and effective means to provide most mentally retarded persons with a "normal" living environment, and at the same time to provide them with the support they need, is the residential group home. Group homes, such as the one planned by appellant Penobscot Housing Development Corporation, Inc., in Brewer, are designed to function much like a family unit. See State ex rel. Thelen v. City of Missoula, 543 P.2d 173, 177 (Mont. 1975) (group home for developmentally disabled deemed to operate "within [the] community structure as a family unit"). Accord Oliver v. Zoning Commission, 326 A.2d 841, 845

^{3/} ABA Commission on the Mentally Disabled, Community-Based Mental Health Treatment: Impact of Zoning Development, 11 Clearinghouse Rev. 356 (1977), citing Glenn, "The Right to the Least Restrictive Alternative," The Mentally Retarded Citizen and the Law 499 (M. Kindred 3d. 1976). See New York State Ass'n for Retarded Children v. Carey, 393 F. Supp. 715 (E.D.N.Y. 1975) (consent decree establishing as goal the establishment of community-based facilities). See also Residential Services: Statements of the National Association for Retarded Citizens 5 (Oct. 1976).

(Conn. C.P. 1974) (group home for employable retarded adults functions as "single housekeeping unit"). Thus, the Brewer home will be composed of but six mentally retarded individuals. Professional staff will provide necessary supervision at all times that residents are in the facility. All the individuals will go out during the day to day programs or jobs and all will share in the communal responsibilities of the home. Much like a family setting, the group home in Brewer will provide the individual residents with a stable physical and psychological environment. Moreover, the co-residents and the staff will provide each resident with emotional support.

Because group homes are one of the most feasible community-based settings in which to provide needed support, they offer to many mentally retarded persons the most "normal" living arrangement compatible with their disability. Group homes provide such individuals with the "patterns of life and conditions of everyday living which are as close as possible to the regular circumstances and ways of life of society." ABA Commission Zoning Report, supra, at 1, quoting Nrje, supra, at 231. They encourage the mentally retarded to function as productive members of society and equip those individuals who are capable to be able to maintain and support themselves. To accomplish these ends, however, it is essential that such group homes be located in residential areas where "normal" members of society live, for the segregation of such homes from the mainstream of the community deprives the residents of the very "societal integration and interaction," that mental disability professionals consider so critical to the education and socialization of mentally retarded persons.

IV. EXCLUSIONARY ZONING LAWS AND PRACTICES SUCH AS THOSE EMPLOYED BY APPELLEE LACK ANY LEGITIMATE ZONING PURPOSE AND SERVE TO FRUSTRATE EFFORTS TO ESTABLISH NEEDED GROUP HOMES FOR MENTALLY RETARDED PERSONS.

Historically, group homes for mentally retarded persons have been subjected to vigorous local opposition. See generally Kressel, The Community Residence Movement: Land Use Conflicts and Planning Imperatives, 5 N.Y.S. Rev. L. & Soc. Ch. 137, 145-56 (1975). Local opposition is often triggered by the same kinds of unjustified prejudice, stereotypes and myths which perpetuate race and sex discrimination. As the Developmental Disabilities State Legislative Project of the American Bar Association Commission on the Mentally Disabled recently concluded:

One thing...has become abundantly clear: local decision-making on the location of community homes allows for and potentially encourages exclusionary and undesirable results.

ABA Report to Delegates at 2-3.

State and local courts around the country have consistently held that local opposition to small, family-like six- to eight-bed group homes serves no legitimate zoning purpose. For example, the New York State Court of Appeals, ruling that a home for ten foster children qualified as a single family unit under the local zoning ordinance, stated:

The city has a proper purpose in largely limiting the uses in a zone to single family units. But if it goes beyond to require that the relationships in the family unit be those of blood or adoption, then its definition of family might be too restrictive....Zoning is intended to control types of

housing and living and not the generic or intimate internal family relations of human beings.

City of White Plains v. Ferraioli, 313 N.E.2d 756 (N.Y. Ct. App. 1974); see also Hessling v. City of Broomfield, 563 P.2d 12 (Colo. 1977); Oliver v. Zoning Commission, 31 Conn. Sup. 197, 326 A.2d 841 (C.P. 1974); Ello v. Liddle, 520 S.W.2d 644 (Mo. Ct. App. 1975).

The City of Brewer's action in excluding the Penobscot Housing Corporation's proposed group home from single-family residential areas of the city was not justified by any legitimate zoning purpose. The record below shows that the group home would function like a single family. Residents would go out during the day to jobs or programs, would share household chores together and would prepare and eat meals together as a family. Extended care or medical services would not be offered by the home. Residents needing medical care would make visits to a doctor or to the local hospital, as would the members of any normal family. A.27. No finding was made by the City that traffic congestion or parking problems would result from allowing the group home to locate in a residential area, nor were findings made that protecting the health or the character of the neighborhood necessitated exclusion of the home. No decrease in neighboring property values was documented.^{4/}

^{4/} All of the studies of the effect of group homes on the value of neighboring property show that neighboring property values are not decreased by community residences for the handicapped. See Group Homes for the Mentally Retarded: An Investigation of Neighborhood Property Impacts, Dr. Julian Wolpert, Woodrow Wilson School of Public & International Affairs, Princeton University, August 31, 1978; The Influence of Halfway Houses and Foster Care Facilities Upon Property Values, City of Lansing Planning Department, Lansing, Michigan.

In fact, the only objection to the location of the group home cited by the Superior Court below was that staff, instead of living in the home fulltime might simply work in the home daily.^{5/} This is not a concern about the types of housing in a neighborhood, or about traffic congestion or space and light that zoning was designed to address. Instead, it is the kind of interference with the internal relationships of families which the Supreme Court sought to prohibit in Moore v. City of East Cleveland, Ohio, 431 U.S. 494 (1974).

Group homes for six to eight mentally retarded persons which like the proposed group home in Brewer, function as a single family should, like any other single family, be allowed to locate in residential neighborhoods without being subjected to additional zoning conditions. State licensing rules and procedures are the appropriate way to insure that legitimate concerns about the adequacy of the home and its ability to meet residents' needs are addressed. Maine's licensing rules and procedures, in fact, fully address these concern.

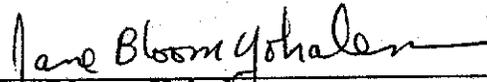
Unnecessary zoning restrictions such as those imposed here serve as an excuse to exclude group homes from the residential neighborhoods most conducive to normalization and full integration into community life. Thus, in order to insure that the rights of the mentally retarded citizens of Maine to live in normal communities like other citizens is not thwarted, the discriminatory exclusion of mentally retarded persons from local communities must be halted by this Court.

^{5/} It is state policy that this home and others like it would have staff supervision during all times residents are in the home.

Conclusion

For the foregoing reasons, the Court should reverse the decision of the Superior Court and declare that the Brewer zoning ordinance be interpreted to permit location of plaintiffs' group home in any district where single family residences are allowed; declare the Brewer zoning ordinance unconstitutional and inoperative to the extent it prohibits establishment of group homes for the mentally retarded in districts where a single family residence is a permitted use; and enjoin defendants from enforcing or interpreting the Brewer zoning ordinance to preclude the plaintiffs from purchasing or using this or any other property as a group home in any district where a single family is a permitted use.

Respectfully submitted,



Jane Bloom Yohalem
Mental Health Law Project
1220 - 19th Street, N.W.
Washington, D.C. 20036
(202) 467-5730

Attorney for the National Association for Retarded Citizens, Inc., the Association for Retarded Citizens/Maine, Inc., and the Advocates for the Developmentally Disabled

Certificate of Service

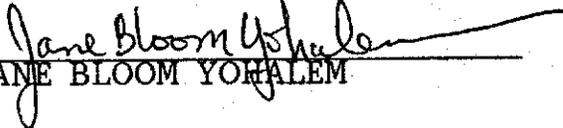
I hereby certify that on this 7th day of November, 1980, I deposited in United States mail, postage prepaid, two copies of the Motion for Leave to File Brief Amici Curiae and Brief Amici Curiae on Behalf of the National Association for Retarded Citizens, Inc., the Association for Retarded Citizens/Maine, Inc. and the Advocates for the Developmentally Disabled to:

Theodore S. Curtis, Jr., Esq.
2 Mill Street
Post Office Box 272
Orono, Maine 04473
Attorney for Appellant Penobscot Area Housing
Development Corporation

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Augusta, Maine 04333
Attorney for Appellant State of Maine

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Brewer, Maine 04412
Attorney for Appellees

David D. Gregory
University of Maine School of Law
Portland, Maine


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- 21 -

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November 4, 1980

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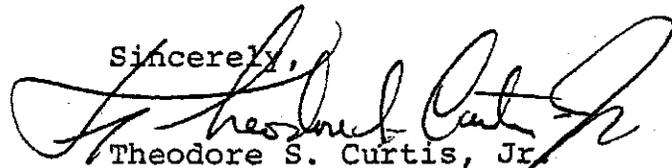
Jane Yohalem, Esq.
Mental Health Law Project
1220 19th Street, N.W.
Washington, D.C. 20036

Re: Penobscot Area Housing Development Corporation, et. al.
v. Board of Appeals of the City of Brewer, et al.
Docket No. 79-489

Dear Attorney Yohalem:

In accordance with your request, appellant Penobscot Area Housing Development Corporation consents to the filing of a brief, as amicus curiae, by you on behalf of the organizations which you represent.

Sincerely,



Theodore S. Curtis, Jr.
Attorney for Penobscot Area

TSCJr.:mr

cc: Joel A. Dearborn, Esq.
William H. Laubenstein, III, Esq.
David D. Gregory, Esq.

RICHARD S. COHEN
ATTORNEY GENERAL



STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

November 5, 1980

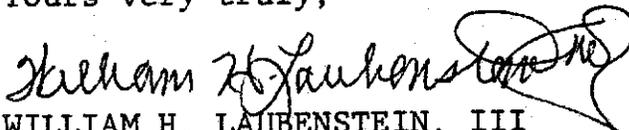
Jane Yohalem, Esq.
Mental Health Law Project
1220 19th Street, N.W.
Washington, D.C. 20036

Re: Penobscot Area Housing Development Corporation, et al. v.
William L. Wetherbee, et al. - Law Docket No. Ken-80-39

Dear Mrs. Yohalem:

Appellants, in accordance with Rule 75A of the Maine Rules of Civil Procedure, give their consent to the filing of a brief, as amicus curiae, by the National Association for Retarded Citizens, the Maine Association for Retarded Citizens, and the Advocates for the Developmentally Disabled.

Yours very truly,


WILLIAM H. LAUBENSTEIN, III
ASSISTANT ATTORNEY GENERAL

WHL:njm

cc: James C. Chute
Joel A. Dearborn, Esq.
Theodore S. Curtis, Jr., Esq.