

CREATIVE MANAGEMENT ASSOCIATES

271 LAFAYETTE ROAD PORTSMOUTH,
NEW HAMPSHIRE 03801

CREATIVE MANAGEMENT ASSOCIATES

OFFERS

: HOUSING DEVELOPMENT SERVICES

Technical assistance and
consultation to non-profits on
property location, financing
and development

CONSULTATION AND TRAINING

Seminars that introduce new
financing strategies, in -
tegration opportunities and
models of service de -velop -
ment

* MANAGEMENT CONSULTATION

Assistance to human service
agencies in administration,
management, board training,
planning and community
development

* PERSONAL DEVELOPMENT

Proactive clinical consult -
ation and training for
agencies involved in
programatic efforts with
behaviorally difficult in -
dividuals

The human service system can be driven by . . .

Funding Sources

Regulatory Agreements

Commitment to Values, Philosophy or Ethics

Funding Driven System:

- * **ICF/MR**
- * **Community Care Waiver**
- * **"Special" HUD Projects**
- * **Title XX**
- * **State Funded Projects**
- * **Third Party Reimbursements (Blues, etc.)**
- * **Family Living Amendments**
- * **Self Sufficiency Trusts**

"MYTHS AND MYSTIQUES ABOUT
WHAT PEOPLE NEED"

"People with disabling conditions
need

- * To be in "special" or
separate " systems " "to meet
their unique needs

- * To develop relationships
with others "of their own
kind"

- * To be in large congregations
with other disabled people
(i.e. sheltered workshops,
special schools, twenty to a
bus, the Wednesday morning,
bowling night out!)

- * To be sent away (segregated)
to special "treatment
facilities" for "retraining"

- * To be "placed" in long term care
facilities

- * To have their "advocate"
providing services to **them**

DEVELOPMENT PRINCIPLES

- * STABILITY, INDEPENDENCE
- * CONTINUITY AND AVAILABILITY OF SUPPORTS
- * EASY ACCESS TO COMMUNITY

FLEXIBILITY OF LIFESTYLES

- * PERSONALIZED ENVIRONMENTS
- * CONTROLLED EMPOWERMENT BY INDIVIDUAL
- * QUALITY ASSURANCE WITHOUT INTRUSION
- * USE OF GENERIC RESOURCES
(MORE WITH LESS)
- * MAKE HOME NOT JUST A HOUSE
- * PRIVACY, RESPECT, DIGNITY
- * COMMUNITY ACCEPTANCE
- * ENHANCED SOCIAL RELATIONSHIPS
- * COMMUNITY INTEGRATION AND PARTICIPATION OPPORTUNITIES
- * ECONOMIC INDEPENDENCE

ALL PEOPLE WITH OR WITHOUT A
DISABLING CONDITION, NEED:

* AN INTEGRATED. PLACE TO LIVE

* COMMUNITY PARTICIPATION
OPPORTUNITIES

* ACCESS TO NECESSARY SERVICES

* MEANINGFUL RELATIONSHIPS

* COMMUNITY ACCEPTANCE

Potential Obstacles to integration

- * System lacks clear set of values
- * System follow funding enticements versus peoples needs
- * Attitudes of MH/DD professionals
- * Lack of necessary community organizational skills

"People Need A Place To Live"

- * Align values & philosophy toward people (integration versus segregation)
- * Educate self on financing options to achieve integration
- * Strategize manipulation of people of influence and resources
- * Communitize "specialized" resources

Guiding Principles in Housing

- * "Regular" housing
- * Builds fiscal stability
- * Costs less
- * Creates long term residence
- * Is easier to obtain
- * offers increased integration opportunities
- * Should be owned by someone invested in people who live there

CMA Individualized Environmental Evaluation Scale

- 1. Is the house a good value?**
- 2. Could you get your money out of it?**
- 3. Is this a home or a facility?**
- 4. Is it a nice place to live?**
- 5. Do people want to live there?**
- 6. Would your kids be safe in the neighborhood?**
- 7. Are there more opportunities to meet "real" people or fabricated ones?**
- 8. Would you live there?**

- * Clarification of Easements,
Encumbrances of Liens
 - * Complete Inspection by
Buyer or Agent
 - * Completed Inventory List
 - * Completed Approval for Occupancy
by Authorities
 - * Transference of Current
Status
 - * Full Compliance with Applicable
Codes, Land Use, Zoning and Other Laws
 - * Conveyance of Leases or
Other Agreements
 - * Conveyance of Deposits,
Interest, etc.
-

FINANCING ALTERNATIVES

- * AGENCY OWNED PROPERTIES
 - * Conventional Financing
 - * Federal/State Assistance
 - * Secondary Mortgage Market
 - * Trusts or Bequests
 - * Donations
 - * Creative Financing
 - * Bargain Sales
 - * Program Related Investments

- * HOUSING COOPERATIVES
 - * Collective Ownership
 - * Limited Equity
 - * Model Programs
 - * Integration Opportunities

Participatory State Capital Options

- * **state owned residences**
- * **use of state owned land**
- * **direct state capital appropriations**
- * **operational funding (contracts)**
- * **Medicaid rate setting**
- * **capital bonding**

More state options . . .

- * **low interest loans (HFA's)**
- * **creative use of tax credits**
- * **mortgage guarantees**
- * **rental subsidies**
- * **leasing supports (commitments or co-sign)**
- * **"loan fund" financing options**
- * **technical assistance**
- * **insurance or trust plans**

Prior to investor financing

Explore ownership versus leasing

- * define the true cost of leasing**
- * define future system equity needs**
- * define system long term residential needs Private Investor Financed**

Residences

- * public/private ventures**
- * investor alternatives**
- * leasing guidelines**
- * tax laws and benefits**

Client Ownership of Real Estate

- * environmental settings**
- * financing options**
- * participatory ownership (coops, etc.)**
- * contracted support services**

OWNERSHIP VERSUS LEASING

COST ANALYSIS

LEASING EXPENSE

MONTHLY LEASE PAYMENTS (YES)

PROPERTY TAXES (YES)

PROPERTY INSURANCE (NO)

LIABILITY INSURANCE (YES)

ADMINISTRATIVE FEES (NO)

LOST INTEREST EXPENSES (NO)

CASH ACCESS REQUIRED (NO)

OWNERSHIP EXPENSE

MONTHLY MORTGAGE PAYMENTS

PROPERTY TAXES (MAYBE)

PROPERTY INSURANCE (YES)

LIABILITY INSURANCE (YES)

ADMINISTRATIVE FEES (STAFF)

LOST INTEREST EXPENSE (YES)

CASH ACCESS REQUIRED (YES)

HOUSING COOPERATIVES

DEFINITION:

"Housing cooperatives are the joint operation of a housing development by those who live in it. All property is owned by a corporation. The corporation's "Articles of Incorporation" and "By Laws" are specially designed so the corporation can be owned and operated by its members (stockholders). A member of a cooperative does not directly own his dwelling unit; he owns a membership certificate or stock in the corporation which carries with it the exclusive right to occupy a dwelling unit and to participate in the operation of the corporation directly as an elected board member or indirectly as a voter."

HOUSING COOPERATIVES

FACTS:

- * CO-OPS ARE DEVELOPED UNDER CORPORATION LAWS
- * MOST STATES HAVE SPECIFIC STATUTES FOR CO-OPS
- * MOST STATES LIMIT NON-PROFITS TO CHURCHES, SCHOOLS OR CHARITIES
- * TENANT-STOCKHOLDERS RELATIONSHIPS:
 - * One Unit One Vote
 - * Democratic Process with Stockholder Rights
 - * Tenancy - Occupancy vs. Proprietary

- * LIMITED EQUITY COOPERATIVES
 - * Controlled Resale
 - * Original Purchase Price
 - * Depreciated Value of Improvements
 - * Compensation for Contributions
 - * Controls Future Costs of Housing
 - * Controls Future Tenants

- * FINANCING OPTIONS
 - * Sale of Stock Certificates
 - * Financing Assistance (Federal, State, Local)
 - * Monthly Fees Based on Operational Expenses

- HOUSING COOPERATIVES HUD PROGRAMS WORTH
CONSIDERING Mortgage Insurance Programs
- * Cooperative Housing (Section 213)
 - * Multi-family Rental Housing (Section 207)
 - * Multi-family Rental Housing
For Low and Moderate Income Families
 - * Section 212 (d) (3) up to
100% financing to non-profits and co-ops
 - * Section 212 (d) (4) up to 90% financing for
others
 - * Rental Rehab Program
 - * Through State Housing
Finance Authorities (come with
Section 8 Rental Subs)

HOUSING COOPERATIVES

ORGANIZATIONAL DOCUMENTS

- * ARTICLES OF INCORPORATION
 - * Purpose
 - * Shares
 - * Restriction on Transfers
- * BY-LAWS
 - * Tenant-Shareholder Requirements
 - * Meetings
 - * Directors and Officers
- * OFFERING MEMORANDUM
 - * Prospectus
 - * Dull
- * SUBSCRIPTION AGREEMENT
 - * Stockholder Purchasing
- * OCCUPANCY AGREEMENT

BENEFITS OF HOUSING COOPERATIVES

- * NATURAL INTERACTION AND INTEGRATION OPPORTUNITIES
- * FULL VOTING RIGHTS FOR ALL MEMBERS
- * ASSISTS INDIVIDUALS WITH HANDICAPPING CONDITIONS TO SHARE IN THEIR OWN HOUSING
- * CREATES CONTINUITY OF PLACE AND RELATIONSHIPS
- * MAY ASSIST OTHERS TO CREATE SIMILAR OPPORTUNITIES
- * NETWORKING OPPORTUNITIES
- * LOW COST HOUSING (LIMITED EQUITY)
- * *TAX BENEFITS TO TENANTS ARE SIMILAR TO OTHER HOUSING*

INDIVIDUAL CONTROL OF RESIDENCE

RESIDENTIAL ENVIRONMENTAL OPTIONS

- * Single Family Residences
- * Condominiums
- * Cooperatives
- * Apartments
- * Multi family Dwellings

FINANCING OPTIONS

- * Conventional Mortgages
- * Federal , State. Local Assistance
- * Shared Equity (Investor)
- * Trusts, Life Trusts
- * Co-assignment of Mortgage

PROGRAMING OPTIONS

- * Contracted Services for
- * Supports

Consumer, parent, advocate, friend "participatory" options

- Donations, trusts, estates
- Investment opportunities
- Social investing
 - * Enterprise Foundation ruling
 - * direct social investments
 - * community loan fund concept (directed)

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COMMUNITY INTEGRATION THROUGH CREATIVE FINANCING

RESOURCE LIST

- Programs Of HUD. Us Department of Housing and Urban Development,
451 Seventh Street, S.W., Washington, D.C.
- The Trust For Public Land, Northeast Regional Office, 666
Broadway, New York, New York 10012-2301. Att: Peter
Stein, Vice President (212) 677-7171
- Social Investing Through Program Related Investments: A Report To
The Ford Foundation. New Ventures, 666 Broadway, 8th
Floor, New York, New York 10012-2301.
- "Tax Advantaged Disposition of Unproductive Properties", Carol
Clark, Real Estate Finance. Vol.1, No.4, Winter 1985,
Federal Research Press, 65 Franklin Street, Boston,
Mass. 02210
- The Federal Tax Course. 1987, Prentice-Hall, Inc., Englewood
Cliffs, New Jersey
- Basic Cooperative Housing Insurance Handbook. Publication #4550.1
May, 1973, 5/81 Reprint. A HUD Handbook, US Department
of Housing and Urban Development, Washington, DC 20410
- National Association of Housing Cooperatives, 2501 M. Street.
N.W., Suite 451, Washington, D.C. 20037 (202) 887-0706.
- Cooperative Housing: A Handbook For Effective Operations. Midwest
Association of Housing Cooperatives, 1977, Available
through the National Association of Housing Cooperatives
Office
- How To Find A Bargain Home. Robert Hancock & Sylvia Carpenter,
Broughton Hall, Inc., 1986, Home Information Center,
4129-H State Street, Santa Barbara, CA 93110
- Leasing Guidelines And Model Lease. Creative Management
Associates, P.O. BOX 5488, Portsmouth, New Hampshire,
03801
- "Estate Planning For Parents Of Persons With Developmental
Disabilities", May, 1982, Developmental Disabilities Law
Center of Massachusetts, Inc. 294 Washington Street,
Suite 840, Boston, MA 02108

NOTES ON LEGAL ASPECTS OF
OWNERSHIP OF RESIDENTIAL
PROPERTY
BY OR ON BEHALF OF
MENTALLY RETARDED
INDIVIDUALS

Forms of Ownership.

1. Individual. There are various forms of home ownership that can be considered for mentally retarded adults. Ownership may be in the name of the retarded individual or individuals who reside at the property. In order to do that, it would be necessary that someone be legally appointed as guardian for the individual. The individual may not otherwise have the legal capacity to transfer the property, should transfer become desirable or necessary. A legal guardian may be required in order to transfer ownership.

Where more than one retarded individual owns real estate there are two forms of ownership available. The first is joint tenancy ownership where the interest of one of the co-owners would terminate upon his or her death. In other words, if there are two co-owners and one dies, then the survivor automatically becomes sole owner of the property. This form probably would not be desirable except, perhaps, in a situation where all of the resident owners were members of the same family. The other form of ownership for two or more individuals is tenancy in common. With a tenancy in common, the interest of an individual is not extinguished upon his or her death. Instead, that individual's interest will pass to his or her

heirs under the Minnesota laws of intestate succession. The other advantage of tenancy in common ownership is that the percentage ownership for each individual does not have to be the same. In other words, it is possible for one individual to be a seventy percent owner and another individual to be a thirty percent owner. This is not the case with joint tenancy ownership, where each of the individuals has an equal ownership interest.

2. Trust. The real estate could also be owned by a trust. There are various types of trusts, but the type which would probably own the real estate would be a so-called living trust. This would be a trust established by, perhaps, parents of the residents which trust would set forth all of the terms under which the property would be held for the benefit of the retarded individuals. The trust would be established by creating a trust agreement.

The trust could be in a form which is revocable, or in a form which is irrevocable. If the trust is revocable then it will be in a form that can be modified as time goes on by the individuals who established the trust in the first place. There is a negative tax result, however, in that the property held in the trust would eventually be taxable for estate tax purposes in the estate of the individuals who establish the trust. If the trust is irrevocable, its terms cannot be changed by the persons establishing the trust.

Tax wise, the property held in such an irrevocable trust would be eliminated from the estates of the individuals who established the trust.

One or more individuals would have to be designated as trustee to administer the trust. The options for trustee include one or more individuals, a bank trust department, or both individual and a bank trust department. In any of those situations, the costs to the trust would have to be reviewed. It would also be important to designate successor trustees to the extent possible. That would be particularly true where individuals were named, so that others could take over in the event of death or incapacity of the trustees initially named.

3. Partnership. The property could also be owned by a partnership. The partnership could consist of parents of the retarded adults. It may also be possible for guardians of the retarded adults to act as partners, although this would necessitate some type of court involvement and expense,

4. Corporation. Finally, the property could be owned by a corporation. Once again, the shareholders could be parents of the retarded individuals or the individuals themselves. In that case, too, it would be necessary to have a legal guardian appointed to act

on behalf of the retarded individual and to vote his or her stock, where necessary.

Legal Concerns With Property Ownership.

There are a number of legal issues which initially come to mind in connection with the ownership of property by or on behalf of mentally retarded adults. Some of those particular concerns are the following:

1. Financing. How is the purchase of the real estate to be financed? The real estate could be a gift made to the individuals themselves or to a separate entity. The purchase could be by a partial gift and the remainder by bank or private financing over a period of years. If the latter option is selected, then it will be necessary to determine whether the monthly payments can come from the resources available to the retarded individuals.
2. Upkeep and Maintenance. No matter what form of ownership is selected, there will also have to be provisions made for costs of upkeep and maintenance of the home. In other words, if the home needs repairs or maintenance, will the source of funding come from the resources available to the retarded individuals, from a separate source of funding established solely for that purpose or from gifts?
3. Eligibility. In each of the ownership forms outlined above, it will be necessary to determine whether the interests of the retarded individual in a home will in any way affect that individual's eligibility under various forms of assistance that are available.
4. Termination of Ownership. Also, in each one of the above ownership forms it will be necessary to establish a way in which the interest of each individual can be terminated. In dealing with the issue of termination of an individual's

interest it will be necessary to decide: (a) when interest should be terminated; (b) how the amount of termination payment will be determined; (c) how the termination payment will be paid. Keep in mind that termination may be necessary for the following reasons: (a) retarded individual or a guardian on behalf of a retarded individual voluntarily desires to leave the home; (b) the retarded individual leaves the home for medical reasons; (c) death of the retarded individual.

5. Decision Making. In any of the circumstances of ownership outlined above, it will also be necessary to establish a decision-making framework which will deal with issues such as repairs and maintenance, and questions of occupancy and the rights of other residents.

In summary, there are many legal issues which will need to be dealt with in an established framework for ownership and operation of the residence for mentally retarded adults. There are a number of options available which complicate things, while at the same time providing alternatives.

Submitted by:

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