

Changes removed barrier to community integration

by [Luther Granquist](#) // April 10th, 2012

The Minnesota Department of Human Services agreed in 2011 to develop a comprehensive plan to provide services for persons with disabilities in the “most integrated setting.” This plan, called an “Olmstead plan” in reference to a United States Supreme Court case that supported moving persons with disabilities out of institutions, was part of the settlement of the lawsuit involving excessive use of restraint at METO, a state program at Cambridge.

Part of the already existing infrastructure for this plan is a state zoning law adopted in 1975 that requires communities to allow small group homes in residential areas. One of the reasons that law was passed was that the members of the Lutheran Church of the Resurrection in Roseville chose in 1972 to start a group home for persons with mental retardation as a 25th anniversary project. The church established a non-profit corporation, The Residence, Inc., to carry out the project.

A church member, Don Zibell, donated 7.5 acres in Shoreview to the corporation. The Residence, Inc. board, headed by another church member, Don Severson, decided to build eight-person three homes and sought a special use permit allowing them to do that in an area zoned for single-family residences. On July 15, 1974, despite strong objections from neighbors who protested that their property values would decline and that open space at the western end of Snail Lake should be preserved, the Shoreview City Council granted their request.

Fourteen Shoreview couples responded by suing the city and The Residence, Inc. in November 1974. They claimed that the group homes would destroy their comfort and well-being and would constitute a nuisance, in addition to lowering the value of their properties. They sought a ruling that the city’s granting of the special use permit was arbitrary, invalid and unconstitutional.

Both the city and the board of The Residence, Inc. sought to have the case go to trial as soon as possible. But the board and its supporters from the Arc realized that the time-consuming process of seeking special use permits would thwart development of group homes and that legislative action was needed. They got Rep. Frank Knoll (R-White Bear Lake) and Sen. Steve Keefe (DFL-Minneapolis), and a bipartisan group of co-authors, to introduce bills that stated it was the “policy of the state that mentally retarded and physically handicapped persons should not be excluded by municipal zoning ordinances from the benefits of normal residential surroundings....”

Their bills stated that a group home for six or fewer residents had to be considered a permitted use even in those areas zoned for single-family residences. Conditional use permits could be required for homes from seven to 16 residents, but the conditions could not be more restrictive than those imposed for other multi-family dwellings. With the support of the Minnesota League of Municipalities, the bills passed unanimously in the House and 58-1 in the Senate.

The legislation didn’t resolve the court case because the special use permits were for eight-person homes and contained a list of special conditions. After a sometimes bitter two-week trial

in May 1975, Judge John Graff upheld the validity of the special use permits. He relied, in part, on the policy of the state expressed in the zoning legislation. The Residence, Inc. ultimately built two group homes on the property. The homes are currently operated by Lutheran Social Services.

Even with the zoning legislation, litigation brought by neighbors challenging development of group homes continued. There were lawsuits in Carver and Hennepin counties in the late 1970s. Early in 1980 a neighbor sued the City of Two Harbors for allowing a six-person home in a residential area in reliance on the law passed in 1975. The Minnesota Supreme Court upheld the city's action. The court emphasized that the 1975 zoning law was "part of a broad program, on the state and national level, to deinstitutionalize mentally retarded persons and return them to the community."

The effective work done almost four decades ago by The Residence, Inc., by the Arc, and by other supporters of the 1975 legislation removed some zoning barriers to provision of truly integrated community services for persons with disabilities.

But removal of zoning barriers alone has not and will not enable all persons with disabilities to live in respectable, independent homes, in neighborhoods they choose, and with the support they want and need. The challenge today to the Department of Human Services, and to the legislature and governor of the state, is to commit the human and monetary resources needed to provide that kind of life for all persons with disabilities.
