

**TO:** Professor Whitman  
**FROM:** Kristen Mahoney  
**DATE:** April 30, 2002  
**RE:** Therapeutic Homes

**Issue:**

Both People Advocating Therapeutic Homes (PATH) and the Connecticut Department of Mental Health and Addiction Services (DMHAS) offered zoning bills, regarding therapeutic homes, to the Connecticut legislature in 2002, but neither bill went very far. This paper addresses the question of which bill more adequately meets the needs of those recovering from alcohol or drug addiction, and suggests other possible approaches.

**Introduction:**

Within the tightly knit communities where children run along the streets, sport-utility vehicles line the drive ways, and each home has a mother and a father, the American Dream families reside. However, today's society has brought about a change in the definition of the family. Families vary in number, gender of parents, number of parents, and blood relation. Those who have previously abused drugs or alcohol often find that the families they need consist of other recovering substance abusers in communities that are not infested with easy access to drugs or alcohol. The cozy suburban streets seem to be the best location for their recovery, but local zoning laws as well as a harsh reaction from those in the community threaten to prevent substance

abusers' integration into the communities of their choice, the ones necessary for their recovery. Both PATH and DMHAS attempted to integrate those recovering from substance abuse into the American Dream Neighborhoods.

**A. PATH's Bill**

PATH's bill focuses on of those individuals recovering from substance abuse as opposed to those with developmental disabilities. According to PATH's bill,

No zoning regulation adopted pursuant to this chapter or any special act shall prohibit any community residence for recovering alcohol-dependent and drug-dependent persons as defined in subsection (c) of this section in any area which is zoned to allow single family residence or structures containing two or more dwelling units, provided such use is granted a special permit pursuant to section 8-3c of the general statutes upon a finding that such community residence is necessary to provide a reasonable accommodation under the Federal Fair Housing Act to recovering drug and alcohol addicted persons.

PATH's bill has not yet applied a numerical restriction as to the occupancy limit of a "community residence for recovering alcohol-dependent and drug-dependent persons," but it leaves room for such a restriction.

**B. DMHAS' Bill**

DMHAS's bill provides, "No zoning regulation shall treat the following in a manner different from an single family residence . . . (3) any residence which houses six or fewer persons who have a psychiatric disability or are in recovery from substance abuse disorder and are receiving residential care, treatment or support services from the Department of Mental Health and Addiction Services or any community provider under contract with or otherwise approved by the Department of Mental Health and Addiction Services." Most importantly, DMHAS limits the number of group home residents that of

right can reside in residential communities to six. DMHAS attempts to meet the needs of a larger audience than PATH, including mentally retarded individuals, children with physical or mental disabilities, and those with psychiatric disabilities. However, in speaking to this broader constituency, DMHAS fails to account for the unique recovery process of substance abusers.

**C. Recovering substance abusers need to reside in residential neighborhoods.**

Substance abusers often need to reside in group homes, specifically because, (1) group homes provide a supportive environment and (2) financial needs. Moria J. Kinnally, *Not in My Back Yard: The Disabled's Quest for Rights in Local Zoning Disputes Under the Fair Housing, the Rehabilitation, and the Americans with Disabilities Acts*, 33 Val. U.L. Rev. 581, 603 (Spring, 1999). The theory behind group homes for those who abuse substances is: "Addicted individuals can help themselves by helping each other abstain from alcohol and drug use one day at a time for a long enough time to permit a new set of values to be substituted for the values of a lifestyle in which alcohol and drugs were used." Laurie C. Malkin, *Troubles at the Doorstep: The Fair Housing Amendments Act of 1988 and Group Homes for Recovering Substance Abusers*. 144 U. Pa. L. Rev. 757 (December, 1995) quoting Paul Molloy, *Self-Run, Self-Supported Houses for More Effective Recovery from Alcohol and Drug Addiction* (Alcohol, Drug Abuse & Mental Health Admin. Technical Assistance Publication Servs. No. 5, 1992) at 7.

Therapeutic homes work.<sup>1</sup> Eighty percent of addicts in treatment relapse; however, eighty-percent of those in group homes remain clean and sober. See, Fair Housing: Testimony Before the Subcomm. On Civil and Constitutional Rights of the House of Representatives Comm. On Judiciary, 104<sup>th</sup> Cong., 2d Sess. (1994) (statement of J. Paul Molloy, Chief Executive Officer, Oxford House, Inc.), available in Westlaw, US Testimony database, 1994 WL 530652. Statistics have shown that group homes neither reduce property values nor increase crime.

The current approach to protect group homes in Connecticut is litigating under the Fair Housing Act (FHA) and the Americans with Disabilities Act (ADA). The FHA defines discrimination as “a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person an equal opportunity to use and enjoy a dwelling.” 42 U.S.C.A. § 3604(3)(A) (1997). The FHA provides three ways to prove discrimination: (1) disparate treatment theory (2) disparate impact theory, and (3) reasonable accommodation.

Most states have adopted the Standard Zoning Act, which provides for the adoption of variances from the Board of Adjustment or the Zoning Board of Appeals. Frequently, citizens attempt to influence those on either Board, and are often successful because of Board members’ desire to please constituents. Once a city denies a group home of recovering substance abusers the right to a variance, the substance abusers can sue under the FHA for discrimination. This takes time, money, and often inhibits the recovery process.

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<sup>1</sup> DePaul University is currently conducting an evaluation of the Oxford House model of treatment. For a description of the study see <http://condor.depaul.edu/~ljason/oxford/description.html>.

This cycle of litigation must come to an end. The constant litigation is costly, often those seeking to form a group home lack the necessary funds to challenge the municipality's zoning laws. Malkin, *Troubles at the Doorstep*, 144 U. Pa. L. Rev. 757 (1995). State statutes have the power to codify what the courts have been granting as variances. In Connecticut, both People Advocating Therapeutic Homes (PATH) and the Department of Mental Health and Addictions Services (DMHAS), have proposed bills that they hope will end the litigation and provide group home accommodations for substance abusers. Unfortunately, the two groups have not been able to agree on a common bill. This paper examines the two bills, first, who they protect, second, what they address, and third, which is more likely to be passed within the legislature.

**I. PATH's bill protects a more flexible population of substance abusers.**

PATH's bill does not discriminate based on number, while DMHAS' bill limits the number of recovering substance abusers who can reside in a group home in a residential community to six. PATH's approach is consistent with the result of litigation in Connecticut, which examines a reasonable accommodation. PATH's bill focuses specifically on recovering substance abusers, while DMHAS's bill attempts to combine group homes for all disabilities. PATH's bill recognizes that recovering substance abusers have special needs different from those group homes designed for people with developmental disabilities, and applies its bill only to those recovering from substance abuse.

**A. Oxford Houses would be protected under the PATH bill, but neglected under the DMHAS bill.**

Oxford Houses, often consisting of six to fifteen residents, would fall outside of the protection offered by DMHAS. Oxford Houses attempt to operate like a family with a sharing of expenses, chores, and democratic decision making. *Oxford House Manual*, <http://www.oxfordhouse.org> (2002); See also, Herbert A. Eastman, *War on Drugs or on Drug Users? Drug Treatment and the NIMBY Syndrome*, 5 B.U. Pub. Int. L.J. 15, 18 (1995). The residents in Oxford Houses are actually attempting to construct a new, drug-free, stable family. *Id.* Oxford Houses do not have a professional staff; they rely on peer-self-help as a form of therapy, meaning that the residents of each house provide treatment to each other. *Id.*

**B. Alternative Methods for Determining the Appropriate Number of Residents in a Group Home:**

There are numerous other approaches to determining how many individuals may reside within a single family dwelling, as opposed to an arbitrary number such as six or eight. Another potential approach would be to designate those residing in group homes as a family, and they therefore would not violate the single family zoning laws, and no permitting process for a reasonable accommodation would be necessary.

**1. State Fair Housing Act Laws:**

Over 30 states have statutes prohibiting discrimination based upon a handicap for the purposes of housing. Arlene S. Kanter, *A Home of One's Own: The Fair Housing*

*Amendments Act of 1988 and Housing Discrimination Against People with Mental Disabilities.* 43 AM. U.L. REV. 925, 984-85 (1994); See, N.C. Gen Stat. § 41A-1 (2001). Additionally, these laws must withstand the scrutiny of the FHAA. Some states include those with substance abuse problems within their classification of those with a handicap, Code of Ala. § 24-8-3(6) (2001), and other states refuse to extend fair housing act protection to them. Connecticut protects recovering substance abusers under the its Fair Housing Act. North Carolina like many states does not extend its handicap protection to those substance abusers who continue to abuse substances.

**2. The residency limit should operate as an occupancy limit based on health and safety standards.**

When examining the numerical ceiling of the term family, the courts look to see if the numerical ceiling is one that attempts to prevent overcrowding in living quarters, or one that bases the numerical requirements on the composition of the family. Restrictions designed to prevent overcrowding will stand up under the FDA, however, those designed based upon the composition of the family will not stand up.

A bright-line limitation, would be helpful in reducing litigation, but a reduction in litigation should not come at the expense of sacrificing people's recovery. A number limitation should be based upon the adequacy of the facility. If a house has 12 bedrooms and can reasonably accommodate 12, then that should be the bright-line limit for that home.

**II. Not in my Backyard: PATH gets more group homes into the backyards of Connecticut, while DMHAS still falls victim to the prejudice against those in group homes by having such a restrictive limit.**

According to PATH's bill, its purpose is to "establish a procedure under the Federal Fair Housing Act providing a reasonable accommodation for therapeutic homes for recovering alcohol-dependent and drug-dependent person." DMHAS claims that the its bill was proposed because, "DMHAS is having difficulty providing community placements for individuals who need care in their homes. This serves as an alternative to expensive unnecessary hospital care, and would clarify that DMHAS can provide services to individuals living in the community without requiring zoning changes." DMHAS is speaking to a broader constituency, but fails to adequately address the particular aspects of those who have a substance abuse problem. DMHAS concerns itself with providing care to those who would otherwise need to be hospitalized. PATH concerns itself with those who suffer from addiction to substances, those who would flourish in a therapeutic home setting.

People look for assurances that their neighborhoods will be safe, free from crime and drugs. Kinnally, *Not in My Back Yard: The Disabled's Quest for Rights in Local Zoning Disputes Under the Fair Housing, the Rehabilitation, and the Americans with Disabilities Acts*, 33 Val. U.L. Rev. 581, 591. In general, suburban areas are less accepting of these types of facilities than urban. Michael Dear, *Understanding and Overcoming the NIMBY Syndrome; Not-In-My-Backyard*, J. AM. Planning Ass'n, June 22, 1992, at 288.

Neighbors often react hostilely to group homes entering their sacred grounds; they voice their concerns to local authorities who out of fear of re-election support the NIMBY (Not in my Backyard) neighbors and leave those seeking to live in their group home to battle in the courts. PATH offers those in group homes broader protection, because it allows more residents in each group home. DMHAS with its six person limit, submits countless group homes, including Oxford Houses to contend with the NIMBY neighbors, forcing them to justify their right to reside in the American Dream Neighborhoods.

**A. Dispersal Requirements**

Neither bill address dispersal requirements. Most other states address these so as to prevent clumping of group homes or a ghetto effect. Under Connecticut General Statute § 8-3f (2001), community residences cannot be established within 1,000 feet of each other. The American Bar Association Commission on the Mentally disabled drafted a model zoning statute permitting group homes for six or less handicap residents if the homes gave notice to local governments and complied with spacing requirements. At least half of the states that follow this model limit the allowable number to six or eight, and they often make provisions for additional members to act as staff.

The ABA's model statute as well as the statutes of many states limiting the group home number to six or eight residents were designed for those with developmental disabilities, such as mental illness, mental retardation and autism; they were not however, designed to address recovering substance abusers. Eastman, *War on Drugs or on Drug Users? Drug Treatment and the NIMBY Syndrome*, 5 B.U. Pub. Int. L.J. at 26. Those

recovering from an addiction need a middle class neighborhood in order to recover and live. *Id.* Oxford Houses, for instance, will only locate in “good houses in good neighborhoods.” Peter Carlson, Washington Post. Dispersal requirements may drive those in need of a good neighborhood into industrial, commercial or lower class areas, thus prohibiting adequate recovery. Eastman, *War on Drugs*, 5 B.U. Pub. Int. L.J. at 26. New York attempts to balance the need for more group homes but also to avoid the ghetto effect of clumping all of the group homes together by allowing a municipality to object to the location of the proposed group home in order to avoid an over concentration of group homes, but then allows the party sponsoring the home to request an immediate hearing. NY CLS Men Hyg § 41.34 (2002). When the commissioner reviews the objection, the commissioner “shall” consider the need for the facility in the municipality as well as the concentration. *Id.*

**B. The permitting process impairs the recovery of those recovering from drug or alcohol addiction.**

Because of the stigma attached to those recovering from substance abuse, neighborhood opposition will be more extreme than for a group home for a “safer” group, such as the mentally retarded or autistic. Eastman, *War on Drugs*, 5 B.U. Pub. Int. L.J. at 27. This would lead to more difficulty in the permitting process for those group homes that do not fall into the “as of right” category and are forced to go through a public permitting process. Oxford Houses, recognizing the stigma, move into neighborhoods without giving notice or applying for permits, and in doing so they encounter little resistance. *Id.* The permitting process also forces addicts to suffer a blow to their self-

esteem by announcing their status as outsiders, and this may have an adverse impact on their recovery. *Id.* Accordingly, Arlene S. Kanter argues, that as a society we must abandon the language of “integration” and move towards inclusive and nonsegregated neighborhoods. *A Home of One’s Own: The Fair Housing Amendment Act of 1988 and Housing Discrimination Against People with Mental Disabilities*, 43 Am. U.L. Rev. 925, 993 (1994).

Group homes for recovering substance abusers require a minimum number in order to be successful in their rehabilitative efforts, where as other group homes for those such as the mentally retarded do not. Eastman, *War on Drugs*, 5 B.U. Int. L.J. at 27. Many group homes, such as Oxford Houses are self-supporting and require more than a minimum number of residents to meet expenses. Additionally, Oxford Houses and many other group homes rely on peer support. This requires “a certain number of residents to achieve the necessary mix of experience and progress in the recovery process for the house to screen new members, support each other at group meetings, and intervene when signs of relapse appear.” *Id.* At eighty percent of Oxford Houses, more than eight residents act as peer support. Limits such as six or eight, “doom the house because they place its members between the rock of reducing their membership below the critical mass necessary for financial and therapeutic success, and the hard place of submitting to near certain public rejection which can lead them strait to relapse into addiction.” *Id.* at 28. Essentially, forcing group homes for recovering substance abusers to fit into the mold of group homes designed for those with developmental disabilities, will severely hinder the recovery process if not prevent recovery of the substance abusers all together.

DMHAS's bill does not recognize the unique aspects of the group homes for recovering addicts, and tries to fit those group homes into an antiquated mold, subjecting recovering substance abusers to the NIMBY syndrome. DMHAS and PATH could develop a compromise bill, one like that of Missouri where a certain percentage of group homes are limited to eight or fewer members, § 89.020 R.S. Mo. (2001), but that limit would not apply to group homes of recovering substance abusers where it would work to hinder the recovery process, *Oxford House-C v. City of St. Louis*, 843 F. Supp. 1556 (E.D. Mo., 1992). An additional approach would be that of Washington State, to prohibit cities from enacting or maintaining zoning legislation which treats residential buildings occupied by those with a handicap any different from a similar building occupied by a family, blood relation. Wash. Rev. Code § 35A.63.240 (2002). Eastman proposes that new zoning codes be enacted which allow families in the traditional sense and unrelated persons who operate a single housekeeping unit to both reside in single family zoned areas. *War on Drugs*, 5 B.U. Pub. Int. L.J. at 35. In the event that a question arises, as to the operation of the group home, the city could ask the home to disclose information as to the operation of the household to the city and the city would not be allowed to disclose that information to the public. *Id.* However, this method ignores the homes that are run not as a family in the sense that they all contribute financially to the operation of the home, but instead each pay varying amounts based on ability or room size, but do contribute emotional support to the other members. *Meyers v. Zoning Board of Appeals of the Town of Groton*, 1997 Conn. Super. LEXIS 1546 (1997). Additionally, group homes with staff may fall outside the city's definition of a family.

Some states use an automatic grant of approval for group homes with membership below a certain number, and the permitting process for those above a certain number. DMHAS' bill requires group homes with six or fewer residents to be treated the same as a single family residence, but does not address a permitting process or a reasonable accommodation that should be made for those group homes which would exceed six residents. PATH's bill allows for the permitting process, but defines "Community Residence for Recovering Alcohol-Dependent and Drug-Dependent Persons" as a facility with X or fewer dependent persons. This approach allows for those homes licensed by DMHAS to "as of right" be considered residential uses, and would therefore be allowed in residential areas including single family residential zones, but still subjects those that do exceed the limit to asking the municipality for a permit and litigating for reasonable accommodation.

**III. PATH's bill will more likely pass in the Connecticut State Legislature.**

Every state in the United States has either state constitutional provisions or enabling legislation that grants its municipalities the power to zone. Kanter, *A Home of One's Own: The Fair Housing Amendments Act of 1988 and Housing Discrimination Against People with Mental Disabilities*. 43 Am. U.L. Rev. at 974. Often local zoning ordinances would exclude group homes from residential communities, and then state legislatures would step in, and write laws that preempt local zoning ordinances, and prohibit the blanket exclusion of group homes from residential communities. *Id.* at 975. Initially states would allow group homes with a limit of six or eight residents to move into single family neighborhoods, but as research has made it clear that group homes for

recovering substance abusers have different necessities, some states have rewritten their laws to make a reasonable accommodation for therapeutic homes. The trend is toward allowing those with disabilities to reside in residential communities. Most states require licensing of group homes, PATH's bill requires the licensing of group homes, and DMHAS' bill requires some relationship to DMHAS, Connecticut's agency responsible for the licensing of group homes ("are receiving residential care, treatment or support services from the Department of Mental Health and Addiction Services or any community provider under contract with or otherwise approved by the Department of Mental Health and Addiction Services.")

The first national survey of state zoning laws was conducted in 1977, and only five states (California, Colorado, Minnesota, Montana, and New Jersey) had state statutes that preempted local zoning ordinances, but today most states have legislation that prevents local municipalities from excluding those with disabilities in group homes from residential neighborhoods. Kanter, *A Home of One's Own: The Fair Housing Amendments Act of 1988 and Housing Discrimination Against People with Mental Disabilities*. 43 Am. U.L. Rev. at 975.

New York, for instance, has passed the Padavan Laws, whose purpose is to facilitate the establishment of community residences and to place the disabled into the life of the community. Jennings, 90 N.Y. 2d at 241 (quoting Governor's Approval Memorandum, 1978 N.Y. Laws 1821). When defining "family" or other occupancy restrictions for single family zoning, to meet the New York standards, a municipality cannot differentiate between those related and those unrelated. Anna L. Georgiou, *NIMBY's Legacy: A Challenge to Local Autonomy: Regulating the Siting of Group*

*Homes in New York*. 26 Fordham Urb. L.J. 209 (January, 1999) at 240. According to NY CLS Men. HYG § 41.34 (2002), “A community residence established pursuant to this section and family care homes shall be deemed a family unit, for the purposes of local law and ordinances.” The Padavan Laws define “community residential facility for the disabled” as “a supportive living facility with four to fourteen residents.” *Id.* The procedures allow a municipality to approve a site recommended by a sponsoring agency, suggest a more suitable site or object based upon concentration grounds. *Id.*

**A. PATH’s bill follows Connecticut State Case Law, while DMHAS is more restrictive than the case law.**

The recent case of the House of the Seven Does rendered in the Connecticut district court found that a reasonable accommodation in the zoning laws should be made for seven residents in an Oxford House. *Tsombanidis v. City of West Haven*, 2001 U.S. Dist, LEXIS 22244, December 28, 2001. The court noted that the house functioned as a single housekeeping unit, and the residents had a direct landlord tenant-relationship with the landlord, and there was no third person responsible for the payments. *Id.* at 37-38. The court recognized the duty that municipalities have under FHAA and the ADA to make reasonable accommodations for those with disabilities so that they are afforded with the same housing opportunities as others. *Id.* at 61. The court also recognized that the accommodation for seven residents is reasonable because without the accommodation, the recovering substance abusers would not be able to afford to live in single family neighborhoods. *Id.*

The City of New London allows Oxford Houses to reside within the single family zoned areas, but not other types of group homes. In *Connecticut Hospital v. City of New London*, 129 F. Supp. 2d 123 (2001), the court granted a preliminary injunction against the city, preventing them from enforcing a cease and desist order against three group homes for recovering substance abusers. The court listed several factors to determine whether or not a temporary residence can count as a dwelling: “intent of the person to return to the residence, the length of time one expects to remain at that location, the absence of an alternative place of residence, the nature of the occupancy, and the relationship between the resident and the owner of the property.” *Id.* at 132.

These cases illustrate the trend in Connecticut, granting a reasonable accommodation not based upon a specific number but upon the composition of the house. Any bill that gives a specific number as to a limit of who can live in a group home, first, goes against the courts, second, does not recognize the family-like aspects of the group homes, and third, ignores the necessity of the suburban environment for therapeutic homes. PATH’s current bill does not specify a number, though leaves room for a specific number, and DMHAS’s bill is extremely over restrictive and limits the number of residents in group homes to six. A bill for group homes would hopefully limit litigation, but an allowance for six in group homes in residential areas would still leave litigation for reasonable accommodation for group homes that require more than six residents. A better bill would be one that allows for a reasonable accommodation by allowing residents of group homes to reside there based upon the space in the house (health and safety standards) and not an arbitrary number.

States have been progressively making more exceptions to single family zoning. Many states have even included older Americans in the categories of people that may reside in a single family neighborhood, even if they violate the traditional definition of family. California for instance declared, “the elderly and the handicapped who live together in a shared housing arrangement benefit from this arrangement by having their housing needs met at a reduced cost.” Cal. Health & Saf Code § 19902 (2001).

**B. New England States**

The New England states have varying approaches to integrating group homes into residential neighborhoods. New Hampshire has a Fair Housing Act, and leaves to the municipalities the ability to set reasonable maximum occupancy in a dwelling. RSA 354-A:14 (2002). Maine defines a community living arrangement as “a housing facility for 8 or fewer persons with disabilities . . . .” 30-A M.R.S. § 4357-A (2001). Maine defines “disability” as having the same meaning as it has under the Federal Fair Housing Act, 42 U.S.C. § 3602. *Id.* In order to prevent discrimination in zoning, “a community living arrangement is deemed a single-family use of property for the purpose of zoning.” *Id.*

In Rhode Island a community residence is defined as a community based residential facility with less than twenty persons who are drug abusers, alcoholics, mentally ill, or mentally retarded and in need of “facilities which are primarily directed toward meeting the health or health related and/or medical needs of the resident.” R.I. Gen. Laws § 23-28.30-1 (2001). According to R.I. Gen. Laws § 45-24-37 (2001) community residences are permitted within “all residential zoning use districts of a

municipality and all industrial and commercial zoning use districts except where residential use is prohibited for public health and safety reasons.”

Rhode Island has a flexible approach that allows for up to twenty recovering substance abusers to reside in the same dwelling provided that they do not violate health and safety standards. This approach follows with the recommendations previously discussed in the law reviews and adequately meets the needs of recovering substance abusers without changing the characteristics of neighborhoods. The size of the house will dictate the occupancy, and not an arbitrary limit.

**C. Potential Approaches to Integrating Group Homes into American Dream Neighborhoods:**

Three potential approaches stand out. First, group homes could be subjected to the same health and safety requirements as other single family homes. Second, family could be redefined to include any cohesive unit, living together, and operating in a democratic fashion. Third, a bill could establish a base number, which would allow for a certain number of residents “as of right” to reside in residential areas and allow for permits for those therapeutic homes that would exceed the limit. The permits should be granted at the state level as opposed to in the individual municipalities to avoid the NIMBY syndrome, despite the fact that zoning has traditionally been an area left to local governments.

In an effort to reduce litigation and confusion, there could be an automatic allowance for group homes with 15-20 residents to go along with Oxford Houses and Rhode Island, if health and safety space allows, and for those group homes that would

fall outside of the “of right” the permitting process should be administered. This approach continues to protect those that have been protected by the courts at the same time as reducing litigation. Potentially, PATH could be responsible for proposing the bill for therapeutic homes that respond to recovering substance abusers, and DMHAS, recognizing that it has a broader constituency could present a bill that responds to those with other disabilities.

Additionally, under Connecticut General Statute § 3-125 (2001) the Attorney General could render an opinion if asked by either house of the General Assembly, the president pro tempore of the Senate, the speaker of the House of Representatives, the majority or minority leader of the Senate or House of Representatives, the head of any executive department, or any state board or commission. However, an Attorney General’s opinion letter, while highly persuasive, is not legally binding, *Windham Community Memorial Hospital v. City of Willimantic*, 166 Conn.113, 118 (1974), thus leaving open the opportunity for continued litigation.

**Conclusion:**

Since, neither of the bills has yet to be passed and the two groups look forward to working together this summer, I will make several suggestions of additional things that they should consider. First, how they intend to deal with number of resident restrictions that apply to those related by blood and those unrelated, essentially, those zoning restrictions that are designed to deal with overcrowding. Second, will they address the changing definition of family and, will there be some requirements as to the democratic nature of the houses? Third, exactly who will be “as of right” and who will be subjected

to the permitting process. Fourth, DMHAS needs to seriously consider the reasoning behind its six person limit, is it merely arbitrary? If so, DMHAS needs to consider the specific needs of those recovering from substance abuse. Finally, DMHAS must consider how it intends to protect Oxford Houses. PATH and DMHAS must come to a common ground and approach the legislature together, supporting the same bill, instead of challenging each other. Hopefully, they will be able to forge a common bond around the inclusion of therapeutic families into the American Dream Neighborhoods. By allowing therapeutic families to move into neighborhoods like any other family, avoiding the traditional stigmas and the isolation of a public hearing, and allowing them to meet their neighbors just like all the other families, recovering substance abusers will have the best possibility of success. The rest is a matter of technicality, and they should look to what the Connecticut State Courts have been approving, and what other jurisdictions have adopted, as well as to what they know to be most beneficial to those in need of group homes. For after all, who has the right to deny those with disabilities access to adequate living arrangements.