

To: Mayor Leffingwell and City Council Members
From: UHNA Disabled Group Home Task Force
Date: May 24, 2012
Subject: HB 216 Resolution Review

#86

Late Backup

Prologue:

On May 15, 2012, the CoA staff of the HHSD presented to city council members of the HHS committee a proposed resolution which would allow the city manager, at the city council's direction, to develop and implement a pilot program to study HB 216 homes for the disabled, including the elderly.

This instrument was not made available, prior to the HHS meeting, to the UHNA Task Force which has, for the past three and a half years, been instrumental in bringing the need for such action to the attention of our elected officials. The Task Force requested a delay in the start of such a pilot program until after the next HHS meeting in June, to allow the Task Force enough time to vet the contents of the proposed resolution prior to council action approving the intent of the resolution. This request was denied.

Analysis:

An analysis of the proposed resolution has revealed the expected bureaucratic verbiage which, while appearing to say much, in reality provides little of substance. Examples: existing resources (what / who), random city wide sample (based on what), identify and assess homes (how), numbers randomly distributed (methodology), inspection (how / by whom) of sample homes, residents, operators (determined how), homes of the type (what) studied in the pilot. Additionally, the resolution is deficient in several other areas.

Deficiencies:

A glaring deficiency in the resolution is the lack of the CoA's definition of what constitutes a HB 216 home. Conversely, the Task Force believes HB 216 is clear on this subject. Throughout attempted interaction between the Task Force and CoA staff over more than two years, the disagreement as to this definition has been the root of the resulting inaction on a recommendation for a city ordinance which would provide the proper levels of health and safety standards for the disabled as identified in the HB 216 State Law and its state approved seven Model Standards..

Another glaring deficiency is the off-hand reference, in the wording of the proposed resolution, to identification and inspection of locations involved in this pilot program. Unlike professionally run group homes that operate in the open, with staff and funding in place and a viable track record, the CoA still is not facing reality when it comes to the rogue homes which have been, and are, the impetus for the work of the Task Force and legislative action in 2009.

Rogue home owners/operators/investors will continue to do whatever is necessary to remain anonymous, operating out of sight below the CoA radar, while collecting their monthly fees, in one location possibly \$12,000 per month, and providing little more than a roof over the heads of the disabled warehoused in these rogue locations.

To blithely assume that all the CoA has to do is walk up to the door of a rogue home (if such has actually been identified based on the number of APD, AFD, EMS calls), enter, gather evidence, and talk to residents, is as far from reality as could be imagined.

Time Line:

The time line indicated in the proposed resolution covers 122 days, 4 months from June 1, 2012 and, as indicated in the final sentence of this resolution, potentially through September 30, 2012.

Questions? During these four months, will the data that is developed, either in support of a city ordinance or a determination, by the city manager, to terminate the pilot program, be made available to the Task Force and/or other interested citizens? If not, why not?

This exercise, as outlined in the proposed resolution, sans any citizen oversight,, will result again in citizens being placed in a reactive role versus being allowed a proactive involvement.

First Tell:

Referring to the final sentence of this resolution, the wording of this sentence is one of two tells in the proposed resolution. A more glaring example of negativity would be hard to find. It is almost as if it is a given - that the pilot plan will fail.

And, it is almost as if this last sentence was, in fact, the first sentence written and all other verbiage in the resolution was created to fit into that negative mold.

This sentence states that "If at any time before September 30, ²⁰¹²~~2012~~, the City Manager determines that permanent regulation of such homes pursuant to HB 216 will be infeasible or unworkable for local adoption at this time, the City Manager may adjust or terminate the pilot, and shall promptly report the changes to Council."

If the city manager decides that, in his estimation, the project should be terminated, he should so advise our elected officials. Then they, the city council, should decide, in open session, whether or not the project will or will not continue.

The use of the word "infeasible" in this last sentence is interesting. The dictionary indicates that it refers to something that is difficult to do. In other words, when something creates a difficulty for the CoA, or simply is not wanted, it is dubbed "infeasible."

The same reasoning could be attached to the CoA's issuing of its 1996 letter announcing a "temporary suspension" of CoA actions related to governance of group homes apparently based on the fact that compliance with a 1995 USSC ruling on group homes would be "difficult to do".

This "temporary suspension" is now in its 16th year and the vacuum established by such lack of CoA action could be identified as a direct cause of the rogue home problem's beginning and its existence in Austin at this time.

Second Tell:

On Page 2 of the resolution, line three, our attention was called to the word "affordable" in connection to the group home problem. The insertion of this word is the second tell in the proposed resolution. Is it a plus or a minus?

Assuming this is meant as a positive addition, one could reason that an average monthly fee of \$500 per resident of a rogue home could be classified as affordable and, therefore, such homes should be included in the CoA's current push for affordable housing.

However, while this monthly fee may be economically affordable, it is by no means affordable in the psychological, physical, or mental sense. No one can afford to, day after day, continue to exist in such detrimental conditions as is experienced by the disabled residents of the rogue homes. No one can tolerate the never ending lack of concern for the disabled evidenced by the owners/operators/ investors of the rogue homes.

When confronted with this conundrum of the intent of this added word, the Task Force did what we have always done. We did our research using all options available, including back channels. Regretfully, and surprisingly, what appears to be driving the insertion of the word "affordable" into this process has nothing to do with the affordability of rogue homes or the health and safety of disabled residents at these locations.

It appears to have everything to do with pitting the work of the Task Force against the CoA's affordable house initiative.

For whatever reasons, by whomsoever individuals or entities, it appears that the rogue home project and Task Force are being labeled as detrimental to the CoA's ongoing push for a city-wide affordable housing initiative; that those of us who are attempting to help the disabled in rogue homes escape from their own ninth level of hell are really attempting to sabotage the CoA's affordable housing initiative; that our claim that we don't want to remove these rogue homes for the disabled out of our communities is a lie and that, therefore, the closing of such homes would add to the number of people on the streets needing affordable housing.

The Task Force views such allegations as a back-handed compliment to the success of the Task Force and its efforts to protect the disabled housed in rogue homes. Conversely, these allegations could result in damaging the credibility of the affordable housing initiative.

Therefore, the Task Force recommends that any individual or entity involved in such misinformation follow the credo of the Task Force; show us the proof of your allegations, proof based on research and documentation. Or, as it is defined in a court of law, show us the preponderance of evidence that is required, by law, to prove the allegations against the Task Force.

Epilogue:

WHEREAS, the proposed resolution and pilot plan are deficient in several areas as documented above, and WHEREAS, the proposed pilot plan does not include proactive participation by the Task Force and other interested parties, and WHEREAS, given the years of work already completed on this project and the voluminous data already archived, a four month time frame to determine the usefulness of the pilot plan is excessive, and WHEREAS, a bias against the success of the pilot plan appears inherent within the plan; now, THEREFORE, be it resolved that the proposed resolution and pilot plan not be approved by the City Council and that the City Council direct the city manager to pursue a more accurate, unbiased, and time controlled plan for consideration by the City Council, said plan to be completed by a date certain established by the City Council.

Respectfully,



Joan Bartz, Chair

UHNA Disabled Group Home Task Force