S T A T E O F N E W Y O R K

1522

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. COLTON, GREENE -- read once and referred to the Committee on Mental Health, Mental Retardation and Developmental Disabilities

AN ACT to amend the mental hygiene law, in relation to community notification requirements for supportive housing

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 1.03 of the mental hygiene law is amended by adding a new subdivision 56 to read as follows:

56. "SUPPORTED HOUSING" MEANS ANY PROGRAM WHOSE OBJECTIVE IS TO ASSIST MENTALLY DISABLED PERSONS IN LOCATING AND SECURING MAINSTREAM HOUSING AND IN ACCESSING THE SUPPORT SERVICES NECESSARY TO LIVE SUCCESSFULLY IN THE COMMUNITY.

S 2. The mental hygiene law is amended by adding a new section 41.58 to read as follows:

S 41.58 COMMUNITY NOTIFICATION FOR SUPPORTED HOUSING PROGRAMS.

(A) WHERE THE OFFICE OF MENTAL HYGIENE CONTRACTS WITH ANY PRIVATE OR NOT-FOR-PROFIT ORGANIZATION TO PROVIDE SUPPORTED HOUSING, AS SUCH TERM IS DEFINED IN SECTION 1.03 OF THIS CHAPTER, TO MENTALLY DISABLED INDIVIDUALS WITHIN A CITY WITH A POPULATION OF ONE MILLION OR MORE, THE PROVISIONS OF THIS SECTION SHALL APPLY.

(B) (1) WHEN A PRIVATE OR NOT-FOR-PROFIT ORGANIZATION INTENDS TO PROVIDE SUPPORTED HOUSING UNITS TO MENTALLY DISABLED INDIVIDUALS WHICH SHALL COMPRISE MORE THAN THIRTY-THREE PERCENT OF THE UNITS IN A BUILDING, IT SHALL NOTIFY THE CHIEF EXECUTIVE OFFICER OF THE MUNICIPALITY AND THE CHAIR OF THE LOCAL COMMUNITY PLANNING BOARD IN WRITING AND INCLUDE IN SUCH NOTICE THE SPECIFIC ADDRESS OF THE PROPOSED SITE AND THE REQUIREMENTS OF THE PROGRAM. THE MUNICIPALITY SHALL HAVE FORTY DAYS AFTER THE RECEIPT OF SUCH NOTICE TO:

(A) APPROVE THE SITE RECOMMENDED BY THE ORGANIZATION;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(B) SUGGEST ONE OR MORE SUITABLE SITES WITHIN ITS JURISDICTION WHICH COULD ACCOMMODATE SUCH HOUSING; OR

(C) OBJECT TO SUCH HOUSING PLACEMENT BECAUSE TO DO SO WOULD RESULT IN SUCH A CONCENTRATION OF COMMUNITY RESIDENTIAL FACILITIES FOR THE MENTALLY DISABLED IN THE AREA IN PROXIMITY TO THE SITE SELECTED OR A COMBINATION OF SUCH FACILITIES WITH OTHER COMMUNITY RESIDENCES OR SIMILAR FACILITIES LICENSED BY OTHER AGENCIES OF STATE GOVERNMENT, INCLUDING ALL COMMUNITY RESIDENCES, INTERMEDIATE CARE FACILITIES, RESIDENTIAL CARE FACILITIES FOR ADULTS AND RESIDENTIAL TREATMENT FACILITIES FOR INDIVIDUALS WITH MENTAL ILLNESS OPERATED PURSUANT TO ARTICLE THIRTY-ONE OF THIS CHAPTER AND ALL SIMILAR RESIDENTIAL FACILITIES OF FOURTEEN OR LESS RESIDENTS OPERATED OR LICENSED BY ANOTHER STATE AGENCY, THAT THE NATURE AND CHARACTER OF THE AREAS WITHIN THE MUNICIPALITY WOULD BE SUBSTANTIALLY ALTERED.

SUCH RESPONSE SHALL BE FORWARDED TO THE ORGANIZATION AND THE OFFICE OF MENTAL HEALTH. IF THE MUNICIPALITY DOES NOT RESPOND WITHIN FORTY DAYS, THE ORGANIZATION MAY PLACE THE INDIVIDUALS AT THE SITE RECOMMENDED IN ITS NOTICE.

(2) PRIOR TO FORWARDING A RESPONSE TO THE ORGANIZATION AND THE OFFICE OF MENTAL HEALTH, THE MUNICIPALITY MAY HOLD A PUBLIC HEARING PURSUANT TO LOCAL LAW.

(3) IF THE MUNICIPALITY APPROVES THE SITE RECOMMENDED BY THE ORGANIZATION, THE ORGANIZATION MAY PROCEED TO PLACE THE INDIVIDUALS IN HOUSING UNITS AT THE APPROVED SITE.

(4) IF THE SITE OR SITES SUGGESTED BY THE MUNICIPALITY ARE SATISFACTORY WITH REGARD TO THE NATURE, SIZE AND COMMUNITY SUPPORT REQUIREMENTS OF THE PROGRAM AND THE AREA IN WHICH SUCH SITE OR SITES ARE LOCATED DOES NOT ALREADY INCLUDE AN EXCESSIVE NUMBER OF COMMUNITY RESIDENTIAL FACILITIES FOR THE MENTALLY DISABLED OR SIMILAR FACILITIES LICENSED BY OTHER STATE AGENCIES, THE ORGANIZATION MAY PLACE THE INDIVIDUALS AT ONE OF THE SITES DESIGNATED BY THE MUNICIPALITY.

(5) IF THE MUNICIPALITY SUGGESTS A SITE OR SITES WHICH ARE NOT SATISFACTORY TO THE ORGANIZATION, THE ORGANIZATION SHALL SO NOTIFY THE MUNICIPALITY WHICH SHALL HAVE FIFTEEN DAYS TO SUGGEST AN ALTERNATIVE SITE OR SITES.

(6) IN THE EVENT THE MUNICIPALITY OBJECTS TO THE LOCATION OF SUPPORTED HOUSING IN THE AREA OR AREAS SUGGESTED BY THE ORGANIZATION; OR IN THE EVENT THAT THE MUNICIPALITY AND ORGANIZATION CANNOT AGREE UPON A SITE, EITHER THE ORGANIZATION OR THE MUNICIPALITY MAY REQUEST AN IMMEDIATE HEARING BEFORE THE COMMISSIONER TO RESOLVE THE ISSUE. THE COMMISSIONER SHALL PERSONALLY OR BY A HEARING OFFICER CONDUCT SUCH A HEARING WITHIN FIFTEEN DAYS OF SUCH A REQUEST.

IN REVIEWING ANY SUCH OBJECTIONS, THE NEED FOR SUCH SUPPORTED HOUSING IN THE MUNICIPALITY SHALL BE CONSIDERED AS SHALL THE EXISTING CONCENTRATION OF OTHER SIMILAR FACILITIES LICENSED BY OTHER STATE AGENCIES IN THE MUNICIPALITY OR IN THE AREA IN PROXIMITY TO THE SITE SELECTED AND ANY OTHER FACILITIES IN THE MUNICIPALITY OR IN THE AREA IN PROXIMITY TO THE SITE SELECTED PROVIDING RESIDENTIAL SERVICES TO A SIGNIFICANT NUMBER OF PERSONS WHO HAVE FORMERLY RECEIVED IN-PATIENT MENTAL HEALTH SERVICES IN FACILITIES OF THE OFFICE OF MENTAL HEALTH. THE COMMISSIONER SHALL SUSTAIN THE OBJECTION IF HE DETERMINES THAT THE NATURE AND CHARACTER OF THE AREA IN WHICH THE HOUSING IS TO BE BASED WOULD BE SUBSTANTIALLY ALTERED AS A RESULT OF THE LOCATION OF SUCH HOUSING. THE COMMISSIONER SHALL MAKE A DETERMINATION WITHIN THIRTY DAYS OF THE HEARING.

(C) FOR THE PURPOSES OF THIS SECTION THE TERM "HOUSING UNIT" SHALL BE THE SAME AS SUCH TERM IS DEFINED IN THE LOCAL BUILDING CODE OF A CITY WITH A POPULATION OF ONE MILLION OR MORE.

S 3. This act shall take effect immediately.