

5835

2009-2010 Regular Sessions

I N   A S S E M B L Y

February 20, 2009

---

Introduced by M. of A. McKEVITT, WALKER, ERRIGO, TOWNSEND, RAIA, McDO-  
NOUGH, ALFANO, BARRA -- Multi-Sponsored by -- M. of A. CROUCH, FITZPA-  
TRICK, GIGLIO, P. LOPEZ -- 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 procedures in  
selection of sites for community residential facilities

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

1     Section 1. Paragraph 1 of subdivision (c) of section 41.34 of the  
2     mental hygiene law, as amended by chapter 1024 of the laws of 1981 and  
3     subparagraph (C) as amended by chapter 823 of the laws of 1992, is  
4     amended to read as follows:  
5     (1) When a site has been selected by the sponsoring agency, it shall  
6     notify ALL PERSONS OWNING PROPERTY WITHIN FIVE HUNDRED FEET OF THE  
7     PROPOSED SITE AND the chief executive officer of the municipality in  
8     writing [and include in such notice]. SUCH NOTICE SHALL INCLUDE the  
9     specific address of the site, the type of community residence, the  
10    number of residents and the community support requirements of the  
11    program. [Such notice] THE NOTICE GIVEN TO THE MUNICIPALITY shall also  
12    contain the most recently published data compiled pursuant to section  
13    [four hundred sixty-three] FOUR HUNDRED SIXTY-THREE-A of the social  
14    services law which can reasonably be expected to permit the municipality  
15    to evaluate all such facilities affecting the nature and character of  
16    the area wherein such proposed facility is to be located. The munici-  
17    pality shall have [forty] SIXTY days after the receipt of such notice  
18    to:  
19    (A) approve the site recommended by the sponsoring agency;  
20    (B) suggest one or more suitable sites within its jurisdiction which  
21    could accommodate such a facility; or  
22    (C) object to the establishment of a facility of the kind described by  
23    the sponsoring agency because to do so would result in such a concen-

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

LBD09182-01-9

1 tration of community residential facilities for the mentally disabled in  
2 the municipality or in the area in proximity to the site selected or a  
3 combination of such facilities with other community residences or simi-  
4 lar facilities licensed by other agencies of state government, including  
5 all community residences, intermediate care facilities, residential care  
6 facilities for adults and residential treatment facilities for individ-  
7 uals with mental illness or developmental disabilities operated pursuant  
8 to article sixteen or article thirty-one of this chapter and all similar  
9 residential facilities of fourteen or less residents operated or  
10 licensed by another state agency, that the nature and character of the  
11 areas within the municipality would be substantially altered.

12 Such response shall be forwarded to the sponsoring agency and the  
13 commissioner. If the municipality does not respond within [forty] SIXTY  
14 days, the sponsoring agency may establish a community residence at a  
15 site recommended in its notice.

16 S 2. Paragraph 5 of subdivision (c) of section 41.34 of the mental  
17 hygiene law, as amended by chapter 1024 of the laws of 1981, is amended  
18 to read as follows:

19 (5) In the event the municipality objects to establishment of a facil-  
20 ity in the municipality because to do so would result in such a concen-  
21 tration of community residential facilities for the mentally disabled or  
22 combination of such facilities and other facilities licensed by other  
23 state agencies that the nature and character of areas within the munici-  
24 pality would be substantially altered; or the sponsoring agency objects  
25 to the establishment of a facility in the area or areas suggested by the  
26 municipality; or in the event that the municipality and sponsoring agen-  
27 cy cannot agree upon a site, either the sponsoring agency or the munici-  
28 pality may request an immediate hearing before the commissioner to  
29 resolve the issue. The commissioner shall personally or by a hearing  
30 officer conduct such a hearing within fifteen days of such a request.  
31 EACH HEARING SHALL INCLUDE AN EVALUATION OF AND RECOMMENDATIONS REGARD-  
32 ING EACH ALTERNATIVE SITE SUGGESTED BY THE SPONSORING AGENCY OR MUNICI-  
33 PALITY.

34 In reviewing any such objections, the need for such facilities in the  
35 municipality shall be considered as shall the existing concentration of  
36 such facilities and other similar facilities licensed by other state  
37 agencies in the municipality or in the area in proximity to the site  
38 selected and any other facilities in the municipality or in the area in  
39 proximity to the site selected providing residential services to a  
40 significant number of persons who have formerly received in-patient  
41 mental health services in facilities of the office of mental health or  
42 the office of mental retardation and developmental disabilities. The  
43 commissioner shall sustain the objection if he determines that the  
44 nature and character of the area in which the facility is to be based  
45 would be substantially altered as a result of establishment of the  
46 facility. The commissioner shall make a determination within thirty  
47 days of the hearing.

48 S 3. This act shall take effect on the thirtieth day after it shall  
49 have become a law.