

5754

2013-2014 Regular Sessions

I N   A S S E M B L Y

March 6, 2013

---

Introduced by M. of A. McKEVITT, GRAF -- Multi-Sponsored by -- M. of A.  
P. LOPEZ -- read once and referred to the Committee on Mental Health

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-  
24    tration of community residential facilities for the mentally disabled in  
25    the municipality or in the area in proximity to the site selected or a

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

LBD03967-01-3

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

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

14 S 2. Paragraph 5 of subdivision (c) of section 41.34 of the mental  
15 hygiene law, as amended by chapter 37 of the laws of 2011, is amended to  
16 read as follows:

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

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

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