



## Advocacy, Education & Outreach

Service to individuals with disabilities and their families for over 50 years

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Good morning Chairman Montigny, Chairman Flynn, and members of the Joint Committee on Bonding, Capital Expenditures and State Assets. My name is John Thomas and I am the Deputy Director of The Arc of Massachusetts, an organization with a fifty year track record of advocacy at both the state and federal level on behalf of people with intellectual disabilities. I frequently stand before committees in this building asking for increased funds for people who remain largely voiceless and vulnerable.

Today I appear to suggest a fiscal solution to the lack of affordable housing that is often the single largest economic barrier for people with intellectual and developmental disabilities to participate in community life. Massachusetts land and housing costs are substantially higher than the national averages. Those costs are not supported sufficiently by the Federal Social Security and Medicaid Programs. A new revenue stream is needed and we believe ***H37 - An Act relative to the development of underutilized facilities and state owned property formerly operated by the Department of Mental Health or the Department of Mental Retardation for supported housing for chronically mentally ill and disabled*** is that source.

This will be the third session this bill will be filed that proposes a mechanism to capture the proceeds of the sale or disposition of surplus property for use in creating housing for persons served by DMR and DMH.

I don't need to point out to anyone on this committee that capital dollars are scarce in Massachusetts. The past Administration's agreement with Wall Street has been to limit annual capital spending at \$1.25 billion to maintain the state's credit rating. The subset of this figure spent on the development of housing directly benefiting people with disabilities is well below the amount necessary to replenish depleted community housing programs with a proven track record of success. We are grateful that several key programs were included in the most recent iteration of ***An Act Financing the Production and Preservation of Housing for Low and Moderate Income Residents***, also known as the **Housing Bond Bill**. This legislation will provide capital funds to address some of the housing needs of people with disabilities, with specific allocations for the Facilities Consolidation Fund, the Community-Based Housing Program, the Home Modifications Loan Program, and the Housing Innovations Fund. These programs help, but unfortunately do not go far enough to ensure people with disabilities who are disproportionately low-income are able to live in our communities with dignity.

The Arc of Massachusetts takes the view that the property on which the Massachusetts Department of Mental Retardation's six large outdated state schools sit, belongs to every taxpayer in each of the 351 cities and towns, and as such, represents a potential resource for the development of housing for persons served by the DMR.<sup>1</sup>

As the remaining campus-style state schools are closed down and recycled to new uses, the Commonwealth can capture the residual value of the land and buildings by disposing them at fair market value and placing the proceeds into a dedicated fund to build integrated housing for persons served by DMR on the grounds of the existing facility, or elsewhere as outlined within the bill's guidelines. In this way, the legacy of commitment to people with intellectual and developmental disabilities is carried into the future.

In the past, when the Executive Branch has signaled its intent to close a facility, whether a state hospital or state school, the proposal has resulted in a veritable feeding frenzy of activity, as parochial interests, often at odds with one another, step forward to lay claim to the potential surplus property. Municipalities, abutters, open space advocates, environmentalists and developers all demand a seat at the table as the process of negotiating with DCAM begins.

To be fair to local interests, in the past, there has been very little coordination between A&F, DCAM, DMR or DMH in offering implementation strategies so that municipal interests or developers can understand exactly what the state is offering when negotiations are underway. Against this backdrop, it is not surprising that each proposed closure has often resulted in years of haggling, litigation and mitigation, with only a fraction of the value of the property left when the dust settles. I would suggest that in the case of DMR state schools and DMH state hospitals, H37 would offer a roadmap for all to observe and anticipate, that would strike a fair balance between individuals for whom the facilities were originally built to serve, and other interested stakeholders.

Ironically, in a 27 page report produced by US Attorney Michael Sullivan at the behest of US Judge Joseph L. Tauro, and released last week as part of the Ricci v. Okin case, Attorney Sullivan noted he was "surprised to find such vast acreage surrounding the various ICF/MRs. Glavin has 123 acres, Monson has 588 acres, Templeton has 2,600 acres, Wrentham has 400 acres and Fernald has 186 acres." He went on to suggest DMR could sell the land to generate revenue with which to develop new residential homes.<sup>2</sup>

With all due respect to the US Attorney, he may not be aware that within the Massachusetts Legislature, lawmakers hailing from districts that abut the Fernald property have repeatedly and successfully introduced language through the state budget that would severely limit the probability that the disposition proceeds would ever benefit DMR clients residing within or outside the state school.

For example, in the past, outside budget language has been enacted into law creating a "Fernald Reuse Committee." In a memo to fellow legislators seeking support, the outside section's House and Senate authors, characterized the land reuse committee as "critical in protecting the interests of the Fernald residents and the greater mental retardation community." What the authors did not mention was the fact that the Fernald Land Reuse Committee's composition suggested there would be few benefits forthcoming to DMR clients as a result of the sale or transfer of the site's property. DMR Commissioner Gerry Morrissey was the sole voting member identified to speak on behalf of human service interests amongst seven persons representing the city of Waltham and three state legislators representing Waltham. Not one parent and not one individual with a disability was listed.

The concept of a land reuse committee heavily slanted towards a local municipality does not bode well for the future disposition of thousands of acres of state-owned property on which the remaining six DMR state facilities sit (not to mention land on which DMH state hospitals are sited). It may prove to be a dangerous precedent that other communities may cite when other facilities are targeted for closure. In the past, when such language has found its way into the final state budget document, lawmakers have frequently told me the mandates enjoy support because the property is deemed a "backyard" issue for the legislative authors and so a vote against would be a breach of such collegial protocol regarding a "district" issue. We take strong exception to this attitude, consistent with US Attorney Sullivan's contention that the property is an asset owned by the state.

While The Arc has and will continue to advocate that persons with disabilities should be the primary beneficiaries of revenues generated from the sale or transfer of this property, we acknowledge the common sense inclusion of abutting communities and their elected officials in the decision-making process. To this end, we have agreed to support only a dedicated earmark of the proceeds or developable units to be built on the existing site. We would, however, strongly urge the Legislature to work with both municipal interests and the Executive Branch in encouraging a more strategic and orderly plan that will reduce friction and allow for a more timely disposition of future parcels. As a former DHCD manager told me, "We need someone higher up the organizational chart telling all of the commissioners to sit in the same room to work it out."

According to the US Supreme Court's *Olmstead* Decision and a subsequent technical advisory issued by the United States Department of Health and Human Services, Massachusetts must provide equitable community-based services, including housing to people with disabilities. The Commonwealth has made little progress towards meeting this goal. This bill would provide a dedicated funding stream to meet the state's obligations under *Olmstead*. It is good economic and public policy, and a fair allocation of funds given the fact that state schools and state hospitals are assets belonging to all residents of the Commonwealth.

I urge the Committee to report this bill out favorably.

Thank you.

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<sup>1</sup> Fernald in Waltham, Monson, Wrentham, Glavin in Shrewsbury, Templeton and Hogan in Danvers.

<sup>2</sup> Case 1:72-cv-00469-JLT Document 158 Filed 03/06/2007, Page 25  
U.S. Department of Justice, Michael J. Sullivan, United States Attorney, District of Massachusetts