

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1491

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La Costa Richard  
Operator's Signature

10/6/03  
Date

2003 HOUSE POLITICAL SUBDIVISIONS

HB 1491

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Salvatore Riccardi  
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10/16/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1491<sub>A</sub>

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date: February 7, 2003

Tape Number	Side A	Side B	Meter #
2		X	0-31.8
Committee Clerk Signature <i>Micki Schmidt</i> 3-11-03			

Minutes:

**TAPE 2: SIDE B:**

**(0.0) CHAIRMAN GLEN FROSETH:** We will open the hearing on HB 1491. Support?

**(1.4) REP. SCOT KELSH:** (Testimony in support) (See attachment #1- an amendment) This amendment excludes both disabilities.

**(3.2) DENISE LOCNIKAR; CITIZEN:** (See attachment #2- she only had one and the Chairman has it.) We live in Fargo. I'm a wife, mother and I work outside the home. My children are grown, but I have a 20 year old who now lives at home. I have been an advocate for children and their safety. What happened to us. The Dakota Foundation and SE Children Services had a private meeting that we weren't invited to. At the point that they proposed this, they said that there would be a meeting because they wanted to detox that Halfway house. She had concerns for the children from convicted sex offenders, drug and alcohol users, profanity, and etc... People would be coming and going at all hours of the night. Our bedroom window is only 20 feet away

Page 2

House Political Subdivisions Committee

Bill/Resolution Number 1491

Hearing Date: February 7, 2003

from the building. The law is always there for fire and emergency matters including knifing, drunkenness, crazy goings on and etc...

**(14.6) AL STENEHJEM:** (Testimony in opposition) (See attachment #3) (There is no # 4)

**(17.8) BRUCE MURRY; ND PROTECTION & ADVOCACY PROGRAM:** (Testimony in opposition.) We support the amendments offered by Rep. Kelsh. This Bill would allow townships, counties and cities to regulate it's obligation of transitional living. The United States Supreme Court has ruled that it is unconstitutional to dissolve developmental disabilities group home out of residential neighborhoods. I would propose a one word amendment which would have similar results to Rep. Kelsh's amendment. It would limit the scope of the Legislation to correctional facilities.

**(19.5) CINDY GREY; SENIOR PLANNER/ZONING ADMINISTRATOR:** (Testimony in opposition) (See attachment #5)

**(24.1) CHAIRMAN GLEN FROSETH:** In licensing group homes, the neighboring surroundings must be a considering factor?

**(24.2) CINDY GREY:** Yes, very much so.

**(24.3) REP. ALON WIELAND:** How many applications or opportunities are there in a given time frame for this type of facility, how many requests annually?

**(24.6) CINDY GREY:** In the four years that I've been with the city of Fargo, I believe we've considered for strictly group home- transitional living facilities, no more than five applications. There are a couple of instances where in the downtown area, we have recently put in, in a transitional area right between a commercial district and a residential district that is serving individuals who sustain brain damage and cannot live on their own. Some cases it's transitional

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House Political Subdivisions Committee

Bill/Resolution Number 1491

Hearing Date: February 7, 2003

setting where they will eventually heal on their own, and other instances they are there for a very long time.

**(25.5) REP. ALON WIELAND:** If I look at this map, you're telling me that all of the white that you can see on the map with the exception of highways and so forth. Is there an allowed use there under the Bill?

**(25.7) CINDY GREY:** Yes, under our zoning combined with the overlay of the red area which is the proposed amendment statute, the white area would be lower and then those are to the large degree multiple family districts and the structures that are there are generally not available for purchase by the Human Service Agency. It's not as wide open as a situation might appear even in those white area's.

**(26.4) REP. SALLY SANDVIG:** Is it true that cost factors influence what type of building they can afford to get?

**(26.6) CINDY GREY:** I'm sure that it does weigh in heavily. I'm not familiar with the funding.

**(27.2) MARCIE CONMY-FISHER; DIRECTOR OF TRANSITIONAL CENTER.**

**BISMARCK:** (Testimony in opposition) (See attachment #6) When the company that I work for, Bismarck Transition Center went through the process of locating a facility in Bismarck. Bismarck does regulate just as Fargo does of where these facilities can go and where they can be located. We are located in an industrial area in town. It's excellent for us and we have no problems. The process the city has, works. There was one area they looked at and it didn't work out, we moved to a different area.

**(28.0) KEITH GILLESHAMMER; EXECUTIVE DIRECTOR OF CENTER INC.:**

(Testimony in opposition) (See attachment #7)

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House Political Subdivisions Committee

Bill/Resolution Number 1491

Hearing Date: February 7, 2003

**(29.5) ELAINE LITTLE; DIRECTOR OF CORRECTIONS AND REHABILITATION:**

(Testimony in opposition)

**(30.9) CONNIE SPRYNSANATYK; LEAGUE OF CITIES:** The league does not support this legislation, because the Cities already have their tools in place to deal with these very difficult issues.

**(31.2) CHAIRMAN GLEN FROSETH:** Further opposition? We will close the hearing on HB 1491. We will take this Bill under consideration next Thursday. (31.8)

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10/6/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1491

House Political Subdivisions Committee

☐ Conference Committee

Hearing Date: February 13, 2003

Tape Number	Side A	Side B	Meter #
2		X	13.2-21.2
Committee Clerk Signature <i>Mickie Schmidt</i>			3-3-03

Minutes:

**TAPE 2; SIDE B:**

**(13.2) CHAIRMAN GLEN FROSETH:** We will open the hearing on HB 1491. There were two amendments offered. The one was from Rep. S. Kelsch that's on page 2; line 26. Explained the amendment.

**(14.2) REP. MARY EKSTROM:** I MOVE TO ADOPT THE AMENDMENT.

**(14.4) REP. CAROL NIEMEIER:** I SECOND IT.

**(14.5) CHAIRMAN GLEN FROSETH:** Any discussion on the amendments? Hearing none, I will take a voice vote: 14-y; 0-n; 0-absent; motion carries. Any discussion on the amendment? Rep. Nancy Johnson commented that the process worked and already had the tools. Rep. Ekstrom stated that there should be a change in zoning. What are the committee's wishes?

**(19.4) REP. ALON WIELAND:** I WOULD MOVE A DO NOT PASS AS AMENDED.

**(19.5) REP. GIL HERBEL:** I SECOND IT.

Page 2

House Political Subdivisions Committee

Bill/Resolution Number HB 1491

Hearing Date: February 13, 2003

**(19.6) CHAIRMAN GLEN FROSETH:** Any further discussion? Hearing none, I will ask the clerk to take the Roll Call Vote: 13-y; 1-n; 0-absent; Carrier: Rep. Johnson (21.1)

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John Costa Rickford  
Operator's Signature

10/16/03  
Date

30705.0101  
Title.0200

Prepared by the Legislative Council staff for  
Representative S. Kelsh  
February 5, 2003

VK  
2/14/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1491 Po1 Sub 2-14-03

Page 2, line 26, after the underscored period insert "The term does not include a facility that provides accommodations for individuals with developmental disabilities."

Page 3, line 16, after the underscored period insert "The term does not include a facility that provides accommodations for individuals with developmental disabilities."

Page 5, line 8, after the underscored period insert "The term does not include a facility that provides accommodations for individuals with developmental disabilities."

Renumber accordingly

Page No. 1

30705.0101

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La Costa Richard  
Operator's Signature

10/16/03  
Date

Date: 2-13-03

Roll Call Vote #: 3

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1491

House \_\_\_\_\_ "POLITICAL SUBDIVISION" \_\_\_\_\_ Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass As Amended

Motion Made By Rep. Wieland Seconded By Rep. Herbel

Representatives	Yes	No	Representatives	Yes	No
Chairman Glen Froseth	✓				
Vice-Chairman Nancy Johnson	✓				
Mike Grosz	✓				
Gil Herbel	✓				
Ron Iverson	✓				
William E. Kretschmar	✓				
Andrew Maragos	✓				
Dale Severson	✓				
Alon Wieland	✓				
Bruce Eckre	✓				
Mary Ekstrom		✓			
Carol A. Niemeler	✓				
Sally M. Sandvig	✓				
Vonnie Pietsch	✓				

Total (Yes) 13 No 1

Absent 0

Floor Assignment Rep. ~~Johnson~~ Johnson

If the vote is on an amendment, briefly indicate intent:

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Richard  
Operator's Signature

10/16/03  
Date

REPORT OF STANDING COMMITTEE (410)  
February 14, 2003 2:30 p.m.

Module No: HR-29-2812  
Carrier: N. Johnson  
Insert LC: 30705.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**

**HB 1491: Political Subdivisions Committee (Rep. Froseth, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO NOT PASS (13 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1491 was placed on the Sixth order on the calendar.**

Page 2, line 26, after the underscored period insert "The term does not include a facility that provides accommodations for individuals with developmental disabilities."

Page 3, line 16, after the underscored period insert "The term does not include a facility that provides accommodations for individuals with developmental disabilities."

Page 5, line 8, after the underscored period insert "The term does not include a facility that provides accommodations for individuals with developmental disabilities."

Renumber accordingly

2003 TESTIMONY

HB 1491

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Richard Costa  
Operator's Signature

10/6/03  
Date

#1 2-7-03  
30705.0101  
Title.

705.0101

Prepared by the Legislative Council staff for  
Representative S. Kelsh  
February 5, 2003

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1491

Page 2, line 26, after the underscored period insert "The term does not include a facility that provides accommodations for individuals with developmental disabilities."

Page 3, line 16, after the underscored period insert "The term does not include a facility that provides accommodations for individuals with developmental disabilities."

Page 5, line 8, after the underscored period insert "The term does not include a facility that provides accommodations for individuals with developmental disabilities."

Renumber accordingly

Page No. 1

30705.0101

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Jo Costa Richardson  
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10/16/03  
Date

#3 2-7-03

(NO #4)



## MENTAL HEALTH ASSOCIATION IN NORTH DAKOTA

*"Touching a Life"*  
**Testimony**

Allan Stenehjelm

**Mental Health Association in North Dakota**

**HB 1491**

**Executive Director**  
Allan Stenehjelm

**Past Presidents,  
National Mental  
Health Association**  
Richard Weber  
Bismarck, 1995-96  
Michael Unjhem  
Fargo, 1987-88  
Gerilee Wheeler  
Bismarck, 1967-68

Mr. Chairman and members of the committee, my name is Allan Stenehjelm. I am the executive director of the Mental Health association in North Dakota. The MHA is a non-profit volunteer citizens organization affiliated with the National Mental Health Association.

The mission of the Mental Health Association in North Dakota is to ensure the availability of appropriate, accessible, and adequately funded treatment and support services for persons with mental illnesses and to remove the stigma associated with mental illness, throughout the state of North Dakota. During the last 3-4 decades, our organization has worked closely with the legislature, the department of Human Services, consumers and their families to move our state's delivery system from an over reliance on institutional or custodial care to a community-based system of care that enables them to be independent productive citizens.

The concept of HB 1491 is opposite of the approach the state adopted following the ARC lawsuit. That was to provide protection to persons with disabilities. Under section 25-16-14 the state made is clear that:

"a licensed group home serving six or fewer developmentally disabled persons must be considered a permitted use in a single-family or equivalent least-density residential zone, and a licensed group home serving eight or fewer developmentally disabled persons must be considered a permitted use in any area zoned for residential use of greater density than single-family use"

HB 1491 would put in effect state law that would not only allow discrimination against a certain class of citizens but it would say YOU SHALL discriminate against a class of citizens.



United Way Agency

Mr. Chairman and members of the committee I urge you to give HB 1491 a unanimous DNP!

Office • Mental Health Association in North Dakota, 1459 Interstate Loop PO Box 4106, Bismarck, ND 58502-4106 (701)255-3692 • Fax (701)255-2411  
Regional Office • Mental Health Association in North Dakota, 124 North 8<sup>th</sup> Street, Fargo, ND 58102-4915 (701)237-5871 • Fax (701)237-0562  
A private, non-profit 501(c)(3) agency. "The only non-governmental organization concerned with all aspects of mental health for all citizens of North Dakota."

Visit our website at [www.mhand.org](http://www.mhand.org)

HELP-LINE 1-800-472-2911

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Richard Richford  
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10/6/03  
Date

#5, 2-7-03

**TESTIMONY**  
**Presented on House Bill 1491**

House Political Subdivisions Committee  
Representative Glen Froseth, Chair

by  
Cindy Gray, Senior Planner/Zoning Administrator  
City of Fargo

February 7, 2003

Mr. Chairman and Members of the Committee:

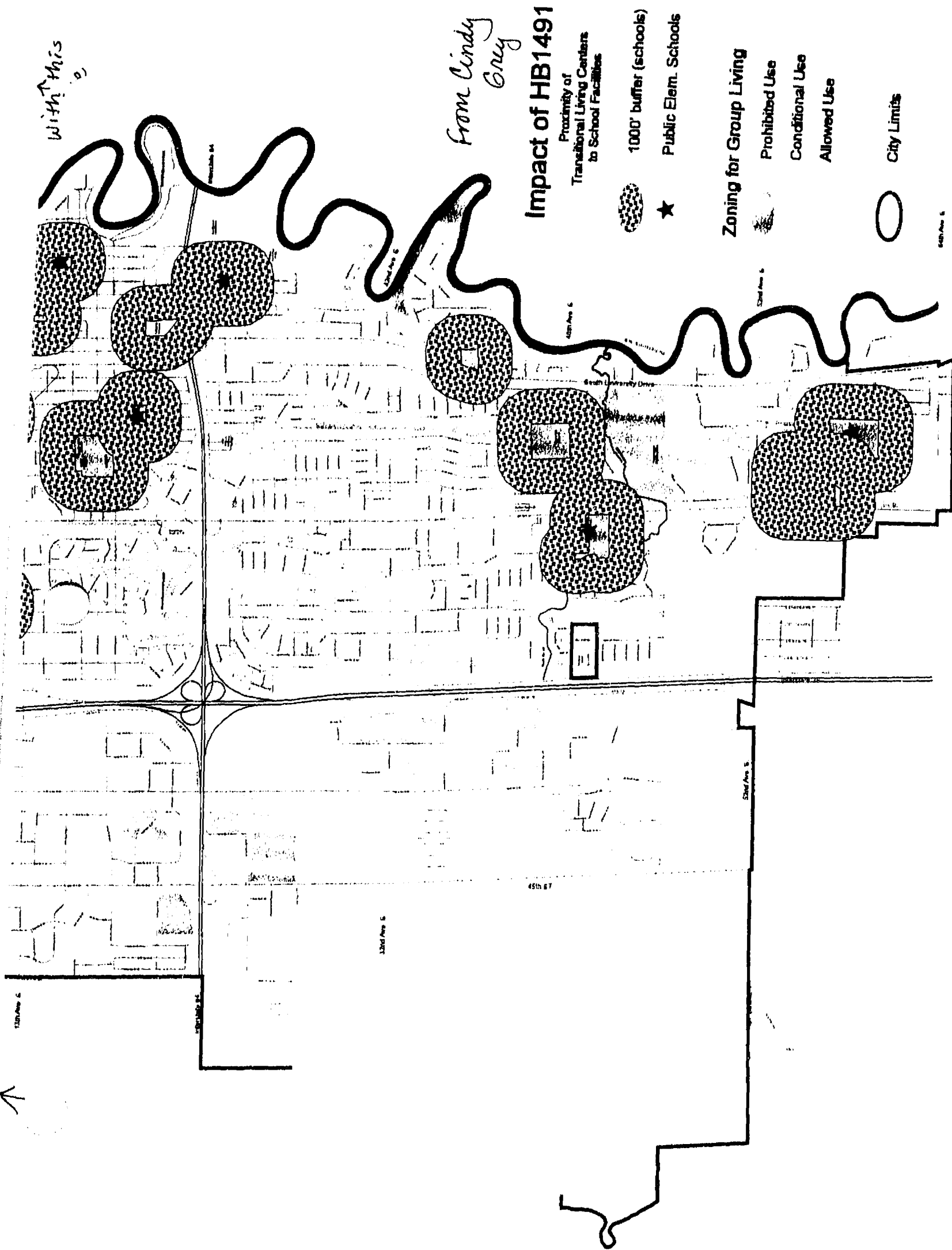
My name is Cindy Gray, Senior Planner/Zoning Administrator from Fargo. I am here today to speak for the City of Fargo in opposition to House Bill 1491.

Local zoning codes are designed to deal with the intricate details of development. Defining how different land uses relate to each other is one of the foundational elements of zoning law.

Most local zoning codes already address the appropriate placement of transitional living facilities, in addition to the appropriate placement of other types of residential, commercial, and industrial uses. The changes proposed by this bill would eliminate a local jurisdiction's ability to evaluate the merits of individual proposals when making zoning decisions regarding the placement of transitional living facilities. The type of individuals served by transitional housing may vary greatly, with some fitting well in a neighborhood setting near a school, and others needing an alternative location. This bill does not differentiate between those groups.

Transitional housing is an important component of the housing market. Transitional living facilities often provide some of a community's most disadvantaged individuals with an opportunity to move toward a more independent and self-sufficient lifestyle. Transitional living facilities tend to be operated by well-respected agencies that have a commitment to serving the best interests of their clients and the community of which they are a part.

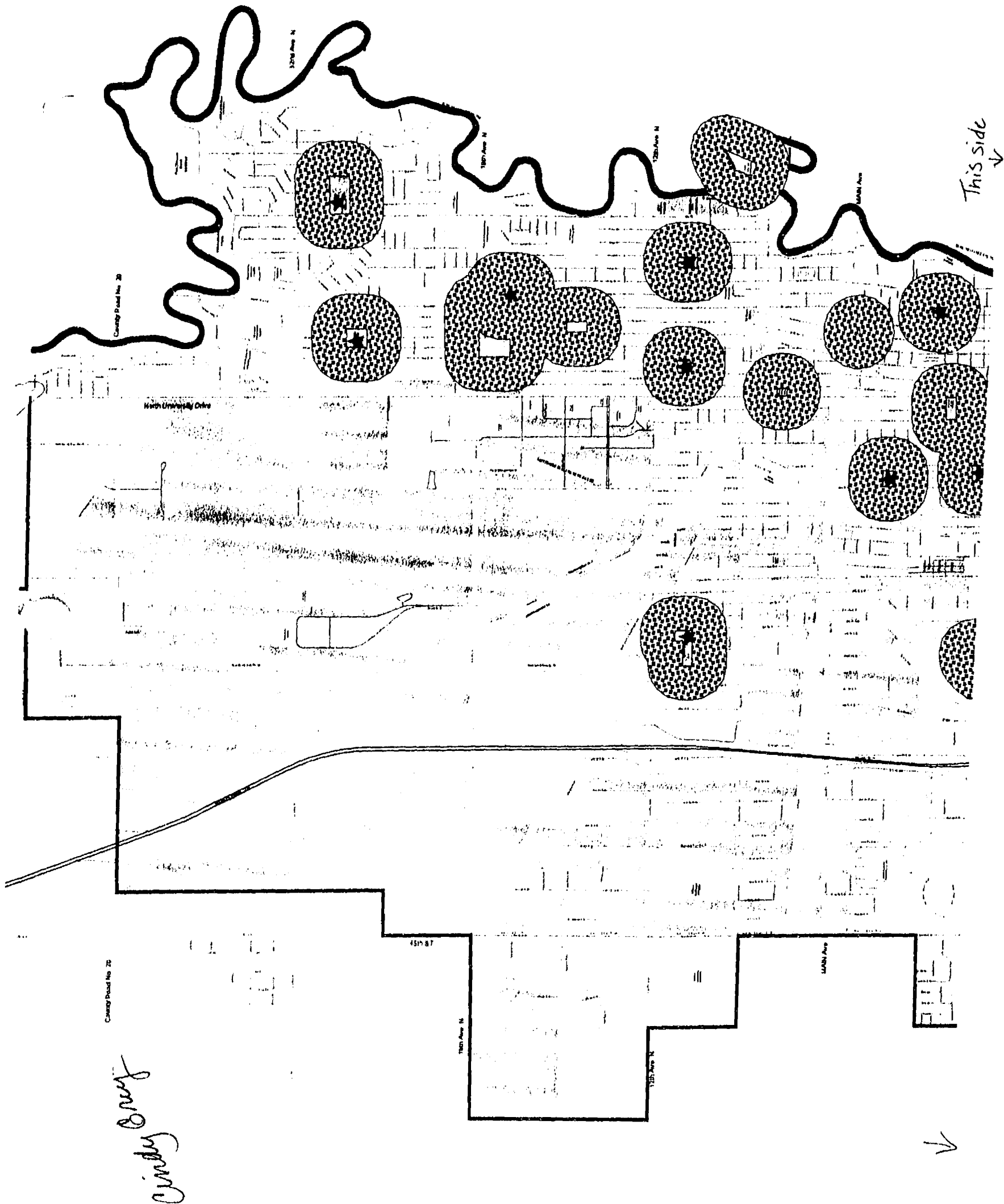
Local officials are concerned about the appropriateness of each development that is proposed within their jurisdiction. Transitional living facilities are reviewed with the same level of scrutiny as are other developments. The circumstances that surround each proposal are likely to be more complex than a blanket "1,000 foot buffer" can accommodate. I encourage you to recommend a "do not pass" for HB 1491.



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10/6/03  
Date

#6 2-7-03

HOUSE POLITICAL SUBDIVISIONS COMMITTEE  
GLEN FROSETH, CHAIRMAN  
FEBRUARY 7, 2003

MARCIE CONMY-FISHER, DIRECTOR  
BISMARCK TRANSITION CENTER, COMMUNITY COUNSELING AND  
CORRECTIONAL SERVICES, INC.  
TESTIMONY IN OPPOSITION TO HB 1491

Mr. Chairman, Members of the Committee:

I am the Director of the newly opened Bismarck Transition Center operated by Community Counseling and Correctional Services, Inc. of Butte, Mt. We operate a facility for the transitioning of inmates from the prison system to the community in a manner that will assist them to remain in society as law abiding and tax paying citizens.

When the DOCR went looking for buildings in the Bismarck-Mandan area they did meet with some opposition from some citizens. The location that we are located in is an industrial section of town, several blocks from residential housing, it is an excellent location for us. Some of our neighbors didn't think we should be here, but most all have changed their minds and even employ some of our residents. This location and approval was all done through the City of Bismarck and their Planning Commission with the final approval of the City Commissioners.

All Cities and Counties now have the ability to limit or restrict business's or others from building in their cities through their codes. Why put another limitation on them? Let them continue to function as they have, it works now.

Transition Centers have been around in one form or another for many years and are becoming almost a necessity to easing prison populations, and assisting the residents in returning to a productive life again. The definition spelled out in the proposed legislation may limit some of the facilities in operation, and covers many types of facilities including adult and juvenile.

I would also like to invite the Committee to come and see our facility, to see what we offer and the advancements our residents have made.

Thank-You for your time and consideration on HB1491 to leave the cities and counties with their authority that they now have.

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10/16/03  
Date

#7 2-7-03  
**Centre**

**HOUSE BILL NO. 1491**

Committee Chair: Representative Glen Froseth

Mr. Chairman and distinguished members of the committee. My name is Keith Gilleshammer and I am the Executive Director of Center, Inc. Centre is a private non-profit North Dakota agency that provides transitional living services as well as other offender and non-offender recovery services in facilities in Fargo, Bismarck, and Grand Forks. We have been providing these services for more than 25 years.

I believe the language of this bill will have negative consequences that will go beyond the intent of the bill. Offering restrictions on placement and definition of transitional living facilities, as written, will create unnecessary complications in an existing process that is working well at all levels listed in the bill. I know of instances where approval for construction and renovation was given when appropriate and when denial was ordered from the local regulating authority.

I offer, as an example, the facility we just opened in Grand Forks. We consider this to be a Centre transitional living facility. There are adults living on one floor that attend chemical dependency day treatment at the human service center across the street. There are adolescents living on another restricted access floor. They attend in-patient chemical dependency treatment on the same floor. Included in the treatment programming are school classes that are taught in a classroom provided. The teacher is from the Grand Forks Public School System and she teaches an approved curriculum for these teens so they can maintain their place in that school system. According to the sections addressing school, it appears a teacher could not conduct classes in our facility unless exceptions to this bill were made.

Placement of transitional facilities is a complicated issue and one that requires a lot of meetings, planning, study and cooperation with local authorities. My experience to this point is that the processes and systems for locating these facilities has proven to be successful. Additional legislation relating to this issue does not seem to be necessary. Our placement of a new facility in Grand Forks was a cooperative effort with a number of requirements from local authorities that needed to be met before approval was given to construct. That system functioned well. The facility is now one year old and has surpassed expectations.

With all due respect, my recommendation for House Bill No. 1491 would be to "do not pass."

Respectfully Submitted,

*Keith Gilleshammer*

Keith Gilleshammer  
Executive Director



United Way

123 15th Street North  
Post Office Box 1269  
Fargo, ND 58107-1269

(701) 237-9340  
FAX (701) 237-9945

315 West Indiana Avenue  
Post Office Box 477  
Bismarck, ND 58502-0477

(701) 222-4966  
FAX (701) 222-1436

103 1/2 3rd Street South  
Post Office Box 477  
Bismarck, ND 58502-0477

(701) 222-0003  
FAX (701) 222-0030

201 4th Street South  
Post Office Box 14102  
Grand Forks, ND 58208-4102

(701) 746-6303  
FAX (701) 746-7713

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*Richard Costa*  
Operator's Signature

*10/16/03*  
Date