

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 1124 Date of Posting: 12/17/85
Posted for: Special Hearing
Petitioner: Gene Fullano et al.
Location of property: No. 5904 Point Pleasant Rd., Towson, Md. 21204
Location of Sign: Gene Fullano et al., 5904 Point Pleasant Rd., Towson, Md. 21204
Remarks: Address location identified by Mark W. Thacker, Jr., Council Member
Posted by: [Signature] Date of return: 1/2/86
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., January 2, 1986
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on January 2, 1986.

THE JEFFERSONIAN,

[Signature]
Publisher

Cost of Advertising

22.00

Case No. 86-274

The Times

Middle River, Md., Jan 2, 1986

[Signature]
This is to certify, that the annexed

was inserted in The Times, a newspaper printed

and published in Baltimore County, once in each

of one successive

weeks before the 2nd day of

Jan, 1986

[Signature] Publisher.

December 20, 1985

S. Eric DiNenna, Esquire
406 W. Pennsylvania Avenue
Towson, Maryland 21204

NOTICE OF HEARING

Re: PETITION FOR SPECIAL HEARING
5904 Point Pleasant Road
14th Election District
Gene Fullano - Petitioner
Case No. 86-274-SPH

TIME: 10:15 a.m.
DATE: Monday, January 20, 1986
PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 012330
DATE: 1/4/86 ACCOUNT: P-01-17-100
AMOUNT: \$ 100.00
RECEIVED FROM: J. Eric DiNenna
FOR: 111 West Chesapeake #137
VALIDATION OF SIGNATURE OF CARRIER

2. Time of Performance and Duration of Agreement

This Agreement shall be considered to be terminated upon completion of the Program or at such time when the funds have been spent, whichever is first to occur, and shall be completed within eighteen months from the date of execution of this contract.

3. Compensation and Method of Payment

a. Compensation

The County shall, subject to the availability of funds from the U.S. Department of Housing and Urban Development, pay the Agency the sum of Seventeen Thousand Five Hundred Dollars (\$17,500) as full and complete payment for services rendered hereunder, in accordance with the budget contained in the Program which is attached hereto and made a part hereof marked Appendix C.

b. Method of Payment

After the Agency has a fully executed contract with the contractor, the County shall disburse funds upon submission to the County by the Agency of a Payment Authorization Form, hereinafter called "Payment Authorization," which reflects the cost of the work completed and approved for payment by the Agency and the County. The number and frequency of Payment Authorization will be determined by the construction contract between the Agency and the contractor in which the County shall be named as Escrow Agent.

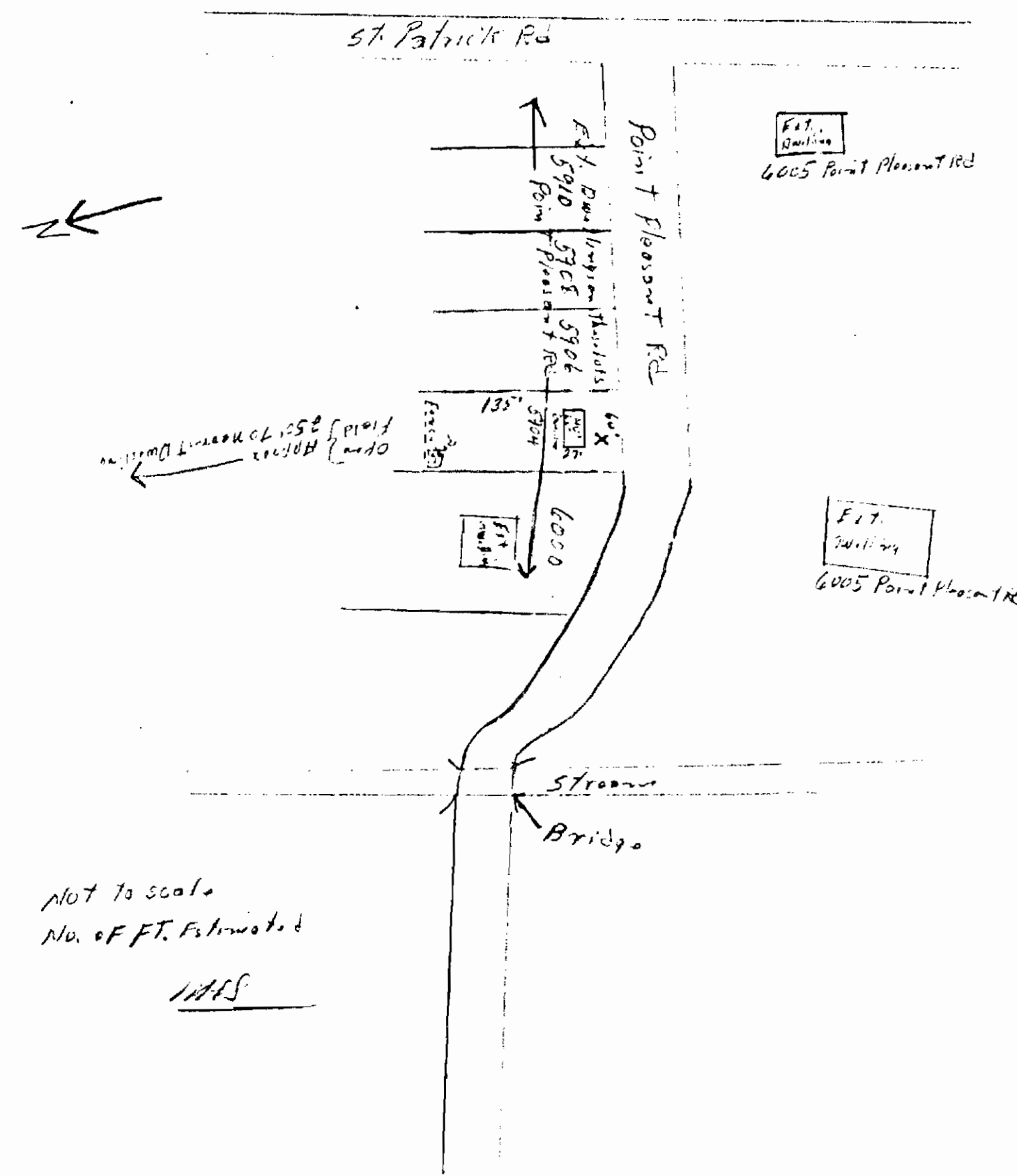
c. No expenditure which varies from the budget contained in Appendix C herein shall be incurred unless prior written approval is received by the Agency from the Project Director.

d. It is expressly understood and agreed that in no event will the total compensation and reimbursement, if any, to be paid hereunder exceed the maximum sum of Seventeen Thousand Five Hundred Dollars (\$17,500) for all services required.

e. The County assumes no obligation for funding beyond the term specified in this agreement.

4. Records

The accounting systems, procedures, and records of the Agency shall be in accordance with accounting procedures acceptable to the County and the U.S. Department of Housing and Urban Development. Records shall be maintained for a period of three years after receipt of the final payment under this Agreement. In the event Agency goes out of existence, it shall be required to turn over to the County and/or HUD all records relevant to the Program.



All costs shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or part to this Agreement shall be clearly identified and readily accessible.

5. Reports and Information

a. At such times and in such terms as HUD and/or the County may reasonably require, the Agency shall furnish such statements, records, reports and information as may be necessary pertaining to matters covered by this Agreement.

6. Audits and Inspections

At any time during normal business hours and at reasonable intervals as deemed necessary by the County, there shall be made available to the County and/or U.S. Department of Housing and Urban Development, for inspection and audit, all of the Agency's records with respect to all matters covered by this Agreement, and Agency will permit the County and/or HUD to make audits of all Contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

7. Conflict of Interest

a. Interest of Members of County

No officer, employee, or agent of the County who exercises any functions or responsibilities in connection with the planning and carrying out of the Program, or any other person who exercises any functions or responsibilities in connection with the Program shall have any personal financial interest, direct or indirect, in this Agreement and the Agency shall take appropriate steps to assure compliance.

THIS AGREEMENT, made this 19 day of Sept, 1985, by and between BALTIMORE COUNTY, MARYLAND, a body corporate and politic (hereinafter called "County") and UNITED CEREBRAL PALSY OF CENTRAL MARYLAND, INC., a private non-profit corporation for persons with handicapping conditions (hereinafter called "Agency").

WHEREAS, Title I of the Housing and Community Development Act of 1974 and subsequent Amendments (hereinafter called the "Act") provides for grants to local jurisdictions for acquisition and/or renovation of Residential Alternatives for the handicapped, and specifically activities eligible in, but not limited to Section 570:201 a, b, c, e, and k and 570:202 of the Rules and Regulations of the Community Development Block Grant Program as outlined in Federal Register, Vol. 43, No. 186, September 23, 1978, which is attached hereto and made a part hereof marked Appendix A.

WHEREAS, the County has designated the County Development Coordinator, hereinafter called "Project Director," as coordinator and monitor of programs in Baltimore County funded under the Act and the Coalition for Handicapped Persons provides technical advice to the "Project Director," and

WHEREAS, the County has received approval of a Community Development Block Grant application which contained funding for the below-mentioned project;

WHEREAS, the County desires to engage the Agency to render certain services in connection with said Community Development Block Grant Program,

NOW THEREFORE, the parties hereto do mutually agree as follows:

1. Scope of Services

The Agency shall, in a satisfactory and proper manner, as determined by the Project Director, perform the following services:

GENERAL:

These funds will be utilized for renovations of an Agency-owned single family dwelling unit at 5904 Point Pleasant Avenue, Baltimore, Maryland 21204. This housing renovation project is in accordance with the May 16, 1985 proposal entitled, "Proposal to Utilize Community Development Block Grant for Acquisition/Renovations of Alternative Living Units for United Cerebral Palsy of Central Maryland, Inc.," which is attached hereto and made a part hereof marked Appendix B.

b. Interest of Agency and Employees

(1) The Agency covenants that no person who presently exercises any functions or responsibilities in connection with the Program has any personal financial interest, direct or indirect, in the Program which would conflict in any manner or degree with the performance of his services hereunder. The Agency further covenants that in the performance of this Agreement, no person having any conflicting interest, shall be employed. Any interest on the part of the Agency, or its employees, must be disclosed to the Agency and HUD, and/or County. Provided, however, that this paragraph shall be interpreted in such manner so as not to impede unreasonably the statutory requirement that maximum opportunity be provided for employment of and participation by residents of the area. The Agency assures that it will incorporate the above provisions into every contract required to be in writing.

(2) By way of example, but without waiving the rights to approve or disapprove of other situations which may project a conflict of interest, the following situations are barred under the terms and provisions of this Agreement:

(a) No member of the Agency's Board of Directors may enter into a contract to perform services for the Agency without a full disclosure of all relevant facts and circumstances to the Project Director.

(b) It is expressly intended and agreed between the parties that the hereinbefore specified circumstances do not exhaust all possibilities of conflict of interest and that where such non-included circumstances arise, the Agency agrees to make full and complete disclosure to the Project Director for his or her determination which determination shall in all events be final.

8. Discrimination prohibited

a. In all hiring or employment made possible by the renovation contracts and subcontracts made by this Agreement: (1) there will not be any discrimination against any employee or applicant for employment because of race, color, religion, sex, handicapping conditions, or national origin, and (2) affirmative action will be taken to insure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, handicapping conditions, or national origin. This requirement shall apply to but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, lay-off or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. There shall be posted in conspicuous places available to employees and applicants for such employment, notices to be provided setting forth the provisions of this clause. All solicitations or advertisements for such employees shall state that all qualified applicants will receive consideration for such employment without regard to race, color, religion, sex, handicapping conditions, or national origin.

b. No person in the United States shall, on the grounds of race, sex, handicapping conditions, color, religion, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement.

9. Political Activity Prohibited

None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used in the performance of this Agreement for any partisan political activity or to further the election or defeat of any candidate for public office.

10. Lobbying Prohibited

None of the funds provided under this Agreement shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before the Congress, State Legislature or County Council.

11. Termination of Contract for Cause

a. If, through any cause, the Agency shall fail to fulfill in a timely and proper manner, its obligations under this Contract, or if the Agency shall violate any of the covenants, agreements or stipulations of this Contract, the Project Director shall thereupon have the right to terminate this Contract by giving written notice to the Agency of such termination and specifying the effective date thereof, at least five days before effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Agency under this Contract shall, at the option of the County, become the property of the County and the Agency shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

b. Notwithstanding the above, the Agency shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Agency, and the County may withhold any payments to the Agency for the purpose of set-off until such time as the exact amount of damages due the County from the Agency is determined.

12. Changes

The County may from time to time request changes in the scope of the services of the Agency to be performed hereunder. Such changes which consist of program modifications mutually agreed upon by and between the County and the Agency shall be incorporated in written amendments to this Agreement. The Agency may not deviate in any respect from the scope of services delineated without the written consent of the Project Director.

13. Personnel

a. The Agency represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the County.

b. All of the services required hereunder will be performed by the Agency, contractors, and subcontractors and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under the State and local law to perform such services.

c. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the County. Any work or services subcontracted hereunder shall be by written contract or agreement and shall be expressly or by incorporation by reference, subject each subcontract or agreement to each provision of this Agreement.

14. Assignability

The Agency shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or novation) without prior written consent of the Project Director thereto.

15. Subcontracts and Other Agreements

The Agency shall not subcontract any portion of the services to be provided hereunder without the proper written consent of the County. The Agency further agrees that prior to the execution of any contract or other legal instrument concerning the services to be provided hereunder, it will submit said contract to the County for its prior written approval.

16. Failure of Internal Systems

The Agency further agrees that should its audit, reports, or internal system of control prove to be inadequate, in the determination of the County Auditor, that it will permit a designee of the County to enter upon its premises and perform all acts necessary and relevant to the establishment of a proper system of internal fiscal control. The County agrees that when the system or systems conform to proper accounting practices, it will return jurisdiction and control to the Agency and its employees.

17. Job Specifications

The Agency shall submit to the County for its review as to conformity with the qualifications of the contractors and subcontractors.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EFFECTED THIS AGREEMENT AND HAVE CAUSED THE RESPECTIVE CORPORATE SEALS TO BE AFFIXED HERETO:

BALTIMORE COUNTY, MARYLAND

Witness
Donald P. Hutchinson
County Executive
UNITED CEREAL FALSY OF
CENTRAL MARYLAND, INC.
Witness
Harvey F. Borge, Jr.
President

REVIEW FOR FORM AND LEGAL SUFFICIENCY AND APPROVED FOR EXECUTION.

OFFICE OF LAW

James T. Smith, Jr.
Assistant County Attorney

BALTIMORE COUNTY COUNCIL

James T. Smith, Jr., Chairperson

934402
OFFICE OF FINANCE
6-05-67-10-07-31 \$17,500.00
Funds Available for Disbursement
9-285
9/17/85

-5-

MAKENDIX 7.

43556 Federal Register / Vol. 48, No. 186 / Friday, September 23, 1983 / Rules and Regulations

Community Development Block Grant/ State Program—44,225 (only as specified).

OMB Control Number
In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the reporting or recordkeeping provisions that are imposed by this regulation have been or will be submitted for approval to the Office of Management and Budget (OMB). Applicable OMB approval numbers are included in the text of the regulation.

List of Subjects in 24 CFR Part 570
Community development block grants; Grant programs: housing and community development; Loan programs: housing and community development; Low- and moderate-income housing; New communities; Pockets of poverty; Small cities.

Accordingly, the Department amends 24 CFR Part 570 as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The Table of Contents to Subparts A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AB, AC, AD, AE, AF, AG, AH, AI, AJ, AK, AL, AM, AN, AO, AP, AQ, AR, AS, AT, AU, AV, AW, AX, AY, AZ, BA, BB, BC, BD, BE, BF, BG, BH, BI, BJ, BK, BL, BM, BN, BO, BP, BQ, BR, BS, BT, BU, BV, BW, BX, BY, BZ, CA, CB, CC, CD, CE, CF, CG, CH, CI, CJ, CK, CL, CM, CN, CO, CP, CQ, CR, CS, CT, CU, CV, CW, CX, CY, CZ, DA, DB, DC, DD, DE, DF, DG, DH, DI, DJ, DK, DL, DM, DN, DO, DP, DQ, DR, DS, DT, DU, DV, DW, DX, DY, DZ, EA, EB, EC, ED, EE, EF, EG, EH, EI, EJ, EK, EL, EM, EN, EO, EP, EQ, ER, ES, ET, EU, EV, EW, EX, EY, EZ, FA, FB, FC, FD, FE, FF, FG, FH, FI, FJ, FK, FL, FM, FN, FO, FP, FQ, FR, FS, FT, FU, FV, FW, FX, FY, FZ, GA, GB, GC, GD, GE, GF, GG, GH, GI, GJ, GK, GL, GM, GN, GO, GP, GQ, GR, GS, GT, GU, GV, GW, GX, GY, GZ, HA, HB, HC, HD, HE, HF, HG, HH, HI, HJ, HK, HL, HM, HN, HO, HP, HQ, HR, HS, HT, HU, HV, HW, HX, HY, HZ, IA, IB, IC, ID, IE, IF, IG, IH, II, IJ, IK, IL, IM, IN, IO, IP, IQ, IR, IS, IT, IU, IV, IW, IX, IY, IZ, JA, JB, JC, JD, JE, JF, JG, JH, JI, JJ, JK, JL, JM, JN, JO, JP, JQ, JR, JS, JT, JU, JV, JW, JX, JY, JZ, KA, KB, KC, KD, KE, KF, KG, KH, KI, KJ, KK, KL, KM, KN, KO, KP, KQ, KR, KS, KT, KU, KV, KW, KX, KY, KZ, LA, LB, LC, LD, LE, LF, LG, LH, LI, LJ, LK, LL, LM, LN, LO, LP, LQ, LR, LS, LT, LU, LV, LW, LX, LY, LZ, MA, MB, MC, MD, ME, MF, MG, MH, MI, MJ, MK, ML, MM, MN, MO, MP, MQ, MR, MS, MT, MU, MV, MW, MX, MY, MZ, NA, NB, NC, ND, NE, NF, NG, NH, NI, NJ, NK, NL, NM, NN, NO, NP, NQ, NR, NS, NT, NU, NV, NW, NX, NY, NZ, OA, OB, OC, OD, OE, OF, OG, OH, OI, OJ, OK, OL, OM, ON, OO, OP, OQ, OR, OS, OT, OU, OV, OW, OX, OY, OZ, PA, PB, PC, PD, PE, PF, PG, PH, PI, PJ, PK, PL, PM, PN, PO, PP, PQ, PR, PS, PT, PU, PV, PW, PX, PY, PZ, QA, QB, QC, QD, QE, QF, QG, QH, QI, QJ, QK, QL, QM, QN, QO, QP, QQ, QR, QS, QT, QU, QV, QW, QX, QY, QZ, RA, RB, RC, RD, RE, RF, RG, RH, RI, RJ, RK, RL, RM, RN, RO, RP, RQ, RR, RS, RT, RU, RV, RW, RX, RY, RZ, SA, SB, SC, SD, SE, SF, SG, SH, SI, SJ, SK, SL, SM, SN, SO, SP, SQ, SR, SS, ST, SU, SV, SW, SX, SY, SZ, TA, TB, TC, TD, TE, TF, TG, TH, TI, TJ, TK, TL, TM, TN, TO, TP, TQ, TR, TS, TT, TU, TV, TW, TX, TY, TZ, UA, UB, UC, UD, UE, UF, UG, UH, UI, UJ, UK, UL, UM, UN, UO, UP, UQ, UR, US, UT, UU, UV, UW, UX, UY, UZ, VA, VB, VC, VD, VE, VF, VG, VH, VI, VJ, VK, VL, VM, VN, VO, VP, VQ, VR, VS, VT, VU, VW, VX, VY, VZ, WA, WB, WC, WD, WE, WF, WG, WH, WI, WJ, WK, WL, WM, WN, WO, WP, WQ, WR, WS, WT, WU, WV, WW, WX, WY, WZ, XA, XB, XC, XD, XE, XF, XG, XH, XI, XJ, XK, XL, XM, XN, XO, XP, XQ, XR, XS, XT, XU, XV, XW, XX, XY, XZ, YA, YB, YC, YD, YE, YF, YG, YH, YI, YJ, YK, YL, YM, YN, YO, YP, YQ, YR, YS, YT, YU, YV, YW, YX, YZ, ZA, ZB, ZC, ZD, ZE, ZF, ZG, ZH, ZI, ZJ, ZK, ZL, ZM, ZN, ZO, ZP, ZQ, ZR, ZS, ZT, ZU, ZV, ZW, ZX, ZY, ZZ.

Subpart A—General Provisions

Sec. 570.1 Purpose.
570.2 Definitions.
570.3 Allocation of funds.
570.4 Waivers.

Subpart B—(Reserved)

Subpart C—Eligible Activities

570.201 General policies.
570.202 Basic eligible activities.
570.203 Eligible planning and policy-making activities.
570.204 Special activities.
570.205 Eligible activities.

Subpart D—Eligible Activities

570.301 General policies.
570.302 Basic eligible activities.
570.303 Eligible planning and policy-making activities.
570.304 Special activities.
570.305 Eligible activities.

Subpart E—Eligible Activities

570.401 General policies.
570.402 Basic eligible activities.
570.403 Eligible planning and policy-making activities.
570.404 Special activities.
570.405 Eligible activities.

Subpart F—Other Program Requirements

570.501 General policies.
570.502 Basic eligible activities.
570.503 Eligible planning and policy-making activities.
570.504 Special activities.
570.505 Eligible activities.

Sec. 570.601 Labor standards.
570.602 Environmental standards.
570.603 Relocation and acquisition.
570.604 Employment and contracting opportunities.
570.605 Land-based point.
570.606 Use of donated, suspended, or otherwise unusable property.
570.607 Use of donated, suspended, or otherwise unusable property.
570.608 Use of donated, suspended, or otherwise unusable property.
570.609 Use of donated, suspended, or otherwise unusable property.
570.610 Use of donated, suspended, or otherwise unusable property.
570.611 Use of donated, suspended, or otherwise unusable property.
570.612 Use of donated, suspended, or otherwise unusable property.

Subpart G—Loan Guarantees

570.701 Eligible activities.
570.702 Application requirements.
570.703 Loan requirements.
570.704 Federal guarantees.
570.705 Applicability of rules and regulations.

Subpart H—Program Management

570.801 Review for compliance with primary objectives.
570.802 Review for compliance with primary objectives.

2. Subpart A of Part 570 is revised to read as follows:

Subpart A—General Provisions

§ 570.1. Purpose.

(a) This Part describes policies and procedures applicable to the following programs authorized under Title I of the Housing and Community Development Act of 1974, as amended:

(1) Entitlement grant program (Subpart D);

(2) Small Cities program: HUD-administered CDBG nonentitlement funds (Subpart F);

(3) State's program: State-administered CDBG nonentitlement funds (Subpart I);

(4) Secretary's Fund program (Subpart J);

(5) Urban Development Action Grant program (Subpart K); and

(6) Loan Guarantees (Subpart M).

(b) Subparts A, J, K, L, and O apply to all of the above programs administered by HUD but do not apply to the State's program (Subpart I) except to the extent expressly referred to in, for example, in § 570.4. (Until Subparts J, K, L, and O are amended to more completely reflect the Housing and Community Development Act of 1974, they should be read as applying to the Entitlement grant program in a manner which recognizes the claims of the applicant/recipient for grants made in Federal Fiscal Year 1982 and thereafter.)

(c) "Act" means Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301 et seq.).

(d) "Age of housing" means the number of existing year-round housing units constructed in 1959 or earlier, based on data compiled by the United States Bureau of the Census referable to the same point or period of time, available from the latest decennial census; except that the 1980 census data will not be used until Fiscal Year 1984.

(e) "Applicant" means a State, unit of general local government, or Indian tribe which makes application pursuant to the provisions of Subparts E, F, G, or M.

(f) "Chief Executive Officer" of a State or unit of local government means the elected official, or the legally designated official, who has the primary responsibility for the conduct of that entity's governmental affairs. Examples of the "chief executive officer" of a unit of local government are: the elected mayor of a municipality; the elected county executive of a county; the chief executive officer of a county commission or board of county commissioners; the county executive; the official designated pursuant to law by the governing body of the unit of general local government; or the chief executive officer of a city.

(g) "City" means, for purposes of Entitlement grant program (Subpart D), the chief executive officer of a city or county; for purposes of the Secretary's Fund program (Subpart J), the chief executive officer of a State or unit of general local government; and for purposes of the Urban Development Action Grant program (Subpart K), the chief executive officer of a city or county.

(h) Subparts A, J, K, L, and O apply to all of the above programs administered by HUD but do not apply to the State's program (Subpart I) except to the extent expressly referred to in, for example, in § 570.4. (Until Subparts J, K, L, and O are amended to more completely reflect the Housing and Community Development Act of 1974, they should be read as applying to the Entitlement grant program in a manner which recognizes the claims of the applicant/recipient for grants made in Federal Fiscal Year 1982 and thereafter.)

(i) "Displacement" means the loss of housing or other facilities by persons or families of low and moderate income.

(j) "Displacement" means the loss of housing or other facilities by persons or families of low and moderate income.

(k) "Displacement" means the loss of housing or other facilities by persons or families of low and moderate income.

(l) "Displacement" means the loss of housing or other facilities by persons or families of low and moderate income.

(m) "Displacement" means the loss of housing or other facilities by persons or families of low and moderate income.

(n) "Displacement" means the loss of housing or other facilities by persons or families of low and moderate income.

(o) "Displacement" means the loss of housing or other facilities by persons or families of low and moderate income.

(p) "Displacement" means the loss of housing or other facilities by persons or families of low and moderate income.

(q) "Displacement" means the loss of housing or other facilities by persons or families of low and moderate income.

(r) "Displacement" means the loss of housing or other facilities by persons or families of low and moderate income.

(s) "Displacement" means the loss of housing or other facilities by persons or families of low and moderate income.

(t) "Displacement" means the loss of housing or other facilities by persons or families of low and moderate income.

43558 Federal Register / Vol. 48, No. 186 / Friday, September 23, 1983 / Rules and Regulations

to undertake essential community development and housing assistance activities which do not affect to their population excluded or (ii) with which it has entered into cooperation agreement, to undertake or to assist in the undertaking of essential community development and housing activities.

(2) has population in excess of one hundred thousand and a population density of five thousand persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of the Census. Any urban county which is included as an urban county in Fiscal Year 1981, the population of the county (other than the population of metropolitan areas) shall be the population of the county for Fiscal Year 1982 falls below the amount required by clause (1) of the preceding sentence by reason of the 1980 decennial census shall be considered as meeting the population requirements of such clause for Fiscal Year 1983 and shall not be subject to the provisions of § 570.301 in that fiscal year.

(3) "Urban Development Action Grant" (UDAG) means a grant made by the Secretary pursuant to section 119 of the Act and Subpart G of this Part.

§ 570.4 Allocation of funds.

(a) The determination of eligibility of units of general local government to receive entitlement grants, the entitlement amounts, the allocation of appropriated funds to States for use in nonentitlement areas, the reallocation of funds, and the allocation of appropriated funds for discretionary grants under the Act shall be the responsibility of the Secretary and shall be governed by the policies and procedures described in sections 108 and 107 of the Act, as supplemented in this section.

(b) The definitions in § 570.3 shall govern in applying the policies and procedures described in sections 108 and 107 of the Act.

(c) In determining eligibility for entitlement and in allocating funds under section 108 of the Act for any Federal Fiscal Year, the Department will recognize corporate status and geographical boundaries and the status of metropolitan areas and central cities effective as of July 1, 1980, and will apply the requirement and where application of the requirement would adversely affect the purposes of the Act.

(d) With respect to corporate status, as certified by the applicable State and available for processing by the Census Bureau as of such date.

(e) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(f) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(g) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(h) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(i) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(j) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(k) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(l) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(m) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(n) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(o) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(p) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(q) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(r) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(s) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(t) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(u) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(v) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(w) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(x) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(y) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(z) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(aa) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(ab) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(ac) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(ad) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(ae) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(af) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(ag) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(ah) With respect to boundary changes or reorganizations, as accepted for the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

Subpart C—Eligible Activities

§ 570.200 General policies

(a) Determination of eligibility. An activity may be financed in whole or in part with Community Development Block Grant (CDBG) funds only if all of the following requirements are met:

(1) Compliance with section 108 of the Act; such activity must meet the eligibility requirements of section 105 of the Act as further defined in this Subpart.

(2) Compliance with primary objectives. The Act establishes as its primary objective the development of viable urban communities, including decent housing and a suitable living environment, and expanding economic opportunity, principally for persons of low and moderate income. For grant recipients under the Entitlement and HUD-administered Small Cities programs, this overall objective is achieved through a program where the principal use of funds has been devoted so as to give maximum priority to activities which will carry out one of the broad national objectives of benefit to low and moderate income families or aid in the prevention or elimination of slums or blight; the projected use of funds may be estimated in accomplishing any such estimates the Secretary may use such other related information available from reputable sources as may seem appropriate, regardless of the date's point or period of time and shall use the best judgment possible in adjusting such data to reflect the same point or period of time as the overall data from which such deduction shall not create an imbalance with those overall data.

(3) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512. Grant closeouts shall be considered as funds available for reallocation.

(4) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512. Grant closeouts shall be considered as funds available for reallocation.

(5) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512. Grant closeouts shall be considered as funds available for reallocation.

(6) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512. Grant closeouts shall be considered as funds available for reallocation.

(7) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512. Grant closeouts shall be considered as funds available for reallocation.

(8) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512. Grant closeouts shall be considered as funds available for reallocation.

(9) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512. Grant closeouts shall be considered as funds available for reallocation.

(10) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512. Grant closeouts shall be considered as funds available for reallocation.

(11) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512. Grant closeouts shall be considered as funds available for reallocation.

(12) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512. Grant closeouts shall be considered as funds available for reallocation.

(13) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512. Grant closeouts shall be considered as funds available for reallocation.

(14) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512. Grant closeouts shall be considered as funds available for reallocation.

(15) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512. Grant closeouts shall be considered as funds available for reallocation.

(16) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512. Grant closeouts shall be considered as funds available for reallocation.

(17) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512. Grant closeouts shall be considered as funds available for reallocation.

(18) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512. Grant closeouts shall be considered as funds available for reallocation.

(19) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.512. Grant closeouts shall be considered as funds available for reallocation.

program, including such goods and services as rental and maintenance of office space, insurance, utilities, office supplies, rental or purchase of office equipment. (b) <i>The provision of information and other resources to participating organizations participating in the planning, implementation, or assessment of activities being done with CDBG funds.</i> (c) <i>Provision of free housing counseling services and other activities designed to further the fair housing goals of the program.</i>	(1) The cost of conducting preliminary surveys and analysis of market needs. (2) Site and utility plan, narrative descriptions of the proposed construction, preliminary cost estimates, urban design documentation, and other "hard" knowledge, both technical and non-technical, such as architectural, engineering, and other details ordinarily required for construction purposes, including structural, electrical, plumbing, and mechanical. (3) Reasonable costs associated with development of applications for construction and insurance.	includes an existing improvement which is to be utilized in the provision of building or facility for the general conduct of government, the portion of the cost attributable to the land is eligible. (3) <i>General government expenses.</i> Except for those specifically authorized in this Subpart or under OMB Circular #47, expenses required to carry out the regular ongoing operations of the unit of general : local government are not eligible for a allowance under this Part.
--	---	--

the objectives of Title VIII of the Civil Rights Act of 1968 and the HUD's primary objective of promoting greater equality of housing opportunities and avoiding undue concentration of minority persons in areas containing a high percentage of lower income persons.

(d) *Provision of assistance to fertilize potential and payment of expenses necessary for HUD to carry out activities assisted with CDBG funds including payment of bond premiums on behalf of:*

(i) *Indirect costs:* Costs may be charged to the CDBG program under a cost allocation plan approved in accordance with OMB Circulars A-87, A-122 as applicable.

(j) *Submissions or applications for Federal programs:* Preparation of applications required by HUD or HUD or States to receive funds under Title VIII.

(k) *Political activities:* CDBG funds shall not be used to finance the use of CDBG funds for political purposes or to engage in other partisan purposes, such as candidate forums, voter registration drives, etc.

(l) *Provision of assistance to finance housing:* CDBG funds may be used on an incidental basis to hold political events, such as candidate forums, voter registration campaigns, provided that all parties and organizations have access to the event on an equal basis and assessed equal rent or user charges, if any.

(m) *The following activities may not be carried out with CDBG funds unless the payment or guarantee of the principal or interest on such bonds, or Special outreach activities which result in greater lending to a particular area, or*

the CDBG and UDAC programs. In addition, CDBG funds may be used to prepare applications for other Federal programs where the recipient determines that such activities are necessary or appropriate to achieve its community development goals.

(4) *Administrative expenses to for-his/her* housing. The construction of new housing or direct assistance for new or existing housing is not an eligible use of CDBG funds, except as provided in § 207.20(b)(2)(b)(i). However, CDBG funds may be used for necessary administrative expenses in planning or obtaining financing for housing units as follows: for Entitlement, for the assistance authorized by this paragraph is limited to units which are identified in the grantee's HUD approved HUD-502 Assistance Plan, for Small Cities, grantees, assistance authorized by this paragraph is limited to facilitating the purchase or occupancy of existing units which are to be occupied by low-income households, or the construction of new units for low-income households.

of rental or owner units where at least 20 percent of the units in each project will be occupied at affordable rents/units by lower income persons. Examples of eligible actions are as follows:

for such items when necessary for use by a recipient or its subrecipients in the administration of activities assisted with CDBG funds, or when eligible as fire fighting equipment, or as a public service pursuant to § 370.201(c).

§ 370.202(d) involving any such building. Also, where acquisition of real property

13670 Federal Register / Vol. 48, No. 188 / Friday, September 23, 1983 / Rules and Regulations

§ 176403 Labor Standards.	§ 176406 National Flood Insurance Program.	
Section 110 of the Act requires that all laborers and mechanics employed by contractors or subcontractors on construction work financed in whole or in part with assistance received under the Act shall be paid wages at not less than those prevailing on similar	Section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. § 410) provides that no Federal official or agency shall approve any financial assistance for acquisition or construction purposes (as defined under section 3(e) of said Act) (42 U.S.C.	respect to relocation payments and assistance will be met. Such assurances will be provided in the grant agreement executed by the grantee (see § 176304(b)). The requirements of the Uniform Act and HUD implementing regulations (42 CFR 42.42) apply to any acquisition of real property by a "State agency" that is carried out with

construction in this locality is not permitted by the State of New York in accordance with the Davis-DeGoe Act, as amended (40 U.S.C. 3332-1304), or by reason of the foregoing requirement for Contract Work Hours and Safety Compensation Act (40 U.S.C. 3332-1304) or any other law. However, these requirements apply to the rehabilitation of residential property. If the property is designed for residential use of eight or more families. With respect to the labor standards, under this section, the Secretary of Labor has the authority and function to enforce the Wage Determination Plan Number 14 of 1950 (2 U.S.C. 1332-1304) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 3332-1304).

§ 570.04 Environmental standards.

Section 104(d) expresses the intent that "the policies of the United States Government shall be consistent with the Environmental Policy Act of 1969 and other provisions of law which further the course of such policy."

Under the Act of June 13, 1934, as amended (40 U.S.C. 3332-1304), it is the intention that such acquisition be for the assistance of the State of New York under this Part and to the displacement of any family, individual, or organization from its own farm that results from such acquisition.

(1) Any acquisition of real property by the Federal Government for the purpose of the construction of a project for an activity assisted under the CDBG program and to be subject to the provisions of the Act of June 13, 1934, as amended (40 U.S.C. 3332-1304) or the acquisition or displacement occurs on the date of the submission of the application requesting Federal financial assistance which is granted for the acquisition or displacement. The acquisition or displacement shall be well as will be undertaken (or, in the case of a grant made pursuant to the Act of June 13, 1934, as amended (40 U.S.C. 3332-1304) of the grantee's own construction of the project, the date of the acquisition or displacement shall be determined by the Secretary of the State, and the Secretary determines that any acquisition or displacement was not carried out for an activity assisted under this Part.

[illegible]

specifically, the HUD would apply to the Secretary were he/she to undertake such projects as Federal projects. Grantees assume such environmental review, decision-making, and action responsibilities by execution of grant agreements with the Secretary. The procedures for carrying out such environmental responsibilities are contained in 24 CFR Part 58.

42.85 which includes any department, agency or instrumentality of a State or political subdivision of a State under which Federal financial assistance will be available to pay all or part of the cost of any project or project which will result in the displacement of any persons, unless he/she receives satisfactory assurance from the State agency that such project meets the requirements of the Uniform Act; with

submission of an application (initial and subsequent) shall be subject to these regulations. The recipient may at any time request a HUD determination as to whether or not such an action and any resulting displacement are considered to be for an assisted activity and be subject to these regulations. The recipient shall submit such request to the HUD Area Office and shall include appropriate background documentation.

(iv) The applicant's performance does not meet the standards prescribed in § 570.908.

(v) Activities to be undertaken with the guaranteed loan funds are not listed as eligible under § 570.201 through § 570.203 and § 570.701 (a) through (f).

(f) The Secretary will notify the applicant in writing that the loan guarantee request has either been approved, reduced or disapproved. If the request is reduced or disapproved, the applicant shall be informed of the specific reasons for reduction or

(f) *Environmental review.* The applicant shall comply with HUD environmental review procedures (24 CFR Part 58) leading to certification for the release of funds for each project carried out with loan guarantee.

assistance. These procedures set forth the regulations, policies, responsibilities

and procedures governing the carrying out of environmental review responsibilities of applicants.

For the purposes of this paragraph, the "release of funds" shall be deemed to occur at the time of guarantee of note or other obligations by the Secretary.

§ 570.703 Loan requirements.

(a) *Maximum loan amount.* No guarantee or commitment to guarantee shall be made with respect to any note or other obligation if the total outstanding notes or obligations guaranteed under this Subpart on behalf of the applicant and each public agency duly designated by the applicant would thereby exceed an amount equal to

three times the amount of the entitlement grant made pursuant to § 570.304 to the applicant.

(b) *Security requirements.* To assure the repayment of notes or other obligations and charges incurred under this Subpart and as a condition for receiving loan guarantee assistance, the applicant for the applicant and designated public agency, where appropriate) shall:

- (1) Enter into a contract with HUD, a form acceptable to the Secretary, for the repayment of notes or other obligations guaranteed under;
- (2) Pledge any grant made or for which that applicant may become eligible under this Part; and
- (3) Furnish, at the discretion of the Secretary, such other security as may

(B) **Qualifying activities.** In order for an activity to qualify under this standard and for the activity to be eligible to address one or more of the six ailments which qualified the area, Residential Rehabilitation Assistance funds must be used only where each structure rehabilitated is considered substandard under local official before:

- (i) **Area benefit activities.** For purposes of determining compliance with the objective criteria of the same type that serve different areas will be considered separately on the basis of the type of activity.
- (ii) **Planning and administrative costs.** Program funds expended for planning and administrative costs under § 500.205-2 above.

(C) **Area benefit activities.** For purposes of determining compliance with the objective criteria of the same type that serve different areas will be considered separately on the basis of the type of activity.

(D) **Planning and administrative costs.** Program funds expended for planning and administrative costs under § 500.205-2 above.

(3) In determining the proportion of funds expended for activities meeting the standard identified in paragraph (b)(1) of this section for purposes of applying the review standard prescribed in the first sentence of subparagraph (2) above:

Statements of Required Conditions

United Cerebral Palsy of Central Maryland agrees to abide by the following required conditions:

Statements of Required Conditions

United Cerebral Palsy of Central Maryland agrees to abide by the following required conditions:

1 -

The agency has provided evidence of its incorporation as a private non-profit agency.

•

Horace F. Burgee, Jr.
Horace F. Burgee, Jr.
President
Board of Directors

APR 20 1967

Seventeen thousand five hundred dollars for installation of two handicapped ramps, renovating kitchen and bathroom, widening hall and bedroom doorways, removing carpet padding and installing an automatic sprinkler system.....\$17,500

Case No. 86-271-384
GUYNE FULLON, et al

cc: Dick Gelfman, Esq.

8641 Loch Raven Blvd. / Suite 2E / Towson, Maryland 21204 / (301) 658-4932

Ref: PETITION 86-274 SP H
Eugene Fullano, Petitioner
5904 Point Pleasant Road
Baltimore, MD 21206

Hearing: January 20, 1986

86-274-SPT
GENE PULLANO, JR.

Baltimore County Zoning Office
111 West Chesapeake Avenue
Towson, MD 21204

Gentlemen:

We, the undersigned, wish to voice our opposition to a zoning reclassification to allow a community group home in the midst of residential properties. All of the homes situated on Point Pleasant Road are maintained by proud owners who presently worry that a group home would detract from the area.

It is our primary purpose to say NO to any changes, or special allowances, from the Zoning Office, at this time.

NAME	ADDRESS	
Pg Robertson	6005 Point Pleasant	21206
John Chilton	6005 Point Pleasant Pl.	21206
Chilton	6003 Pt. Pleasant Pl	21206
Wally Wilkins	330 St Patrick Rd	21206
Benny Libellon	330 St Patrick	21206
Theresa A. DuVal	6001 POINT PLEASANT	21206
Catherine Rutledge	6001 Point Pleasant Pl	21206
Myra H. Spence	321 St. Patrick Rd.	21206

We the undersigned are of the opinion that the proposed located at 5934 Paul Pleasant Road needs a Special Exemption for a Community Care Center and should not be allowed as a matter of right.

Leroy W. Fisher 5915 Baybreak Terrace 21206
 Frank Plough 5906 Point Pleasant Rd 21206
 Bernadette Bayne 5906 Pt Pleasant Rd 21206
 Monique & Steven 6000 PT Pleasant Rd
 John H. Houn 6006 Point Pleasant Rd. 21206
 Eric Bettelhoff 6001 PT. PLEASANT RD. 21206
 James Hill 6000 Pt Pleasant Rd 21206
 Roger Spitzer 5903 Baybreak Inn 21206
 Robert Roberts 5903 Baybreak Ave 21206
 William Alworth 6001 Pt Pleasant Rd
 Gene D. Hall 6000 Pt. Pleasant Rd
 John C. Robertson 6005 Point Pleasant Rd. 21206
 William J. Siddle 5907 Baybreak Terrace

PETITIONER'S
EXHIBIT

Chancery No. 7175 (Circuit Court for Caroline County, September 11, 1978), directly on point, is persuasive:

Article 3 of the Caroline County Zoning Ordinance defines "family" as "one or more persons occupying a single housekeeping unit and using common cooking facilities, provided that unless all members are related by blood or marriage, no such family shall contain over four (4) persons"....

With respect to the definition of the word "family" in the zoning ordinance, in my opinion, when dealing with the definition we are concerned with the characteristics of a group of people. A group of people no larger than a normal family, living in a house that is a single family dwelling, eating together and having other characteristics of a family, meets the requirement of being considered a family. Zoning regulations cannot deal with the relationship of those persons who compose such a family group... If a group of persons are living together as a family unit—attempting to duplicate a normal family—with a couple, or even a single person or several people working together as a staff, acting as surrogate parents, and the house in which they live has one kitchen, one dining room in which the group eats as a family unit, and one or more bathrooms for the use of all members of the group, there exists a "family". I do not believe a zoning ordinance can by definition characterize the relationship so as to hold the group is not a family. I do not extend my holding to a fraternity house, dormitory, commune or small institution. But wherever it can be shown in situations similar to that now being considered by the Court that there is a true family unit, whether related or not, this satisfies the definition of a family. To hold otherwise would be unconstitutional under due process principles.

Notwithstanding the requirement for special exceptions for community care facilities and for rooming/boarding houses, it must be emphasized that if a living unit meets the definition of "family", it is not a community care facility and it is not a rooming or boarding house. To hold otherwise would be inconsistent.

The terms "boarding house" and "rooming house" for which a special exception are needed do not include:

1. single housekeeping units classified as a family;
2. programs or facilities for children;

- 8 -

3. units where meals are provided but that are not the primary residence of the owner;
4. adult foster care homes supervised by the Department of Social Services; and
5. apartment buildings, hotels, or motels.

The term "boarding house" can include a care home which meets the other criteria for qualification as a boarding house. The term "care home", however, does not include:

1. facilities providing only domiciliary care to fewer than four individuals and
2. adult residential homes certified by the Department of Human Resources.

The Petitioners argued that the UCP proposed use is a rooming or boarding house. The overriding facts are that the home here is not operated for commercial purposes, the residents do not pay a daily fee for lodging and meals, and residence at the home is permanent. See In Re: Miller, 482 A.2d 688 (Pa., 1984). Further, supervision and assistance are provided and a bona fide housekeeping unit would exist. Such factors are characteristic of a single housekeeping unit, thereby distinguishing a "family" from a rooming or boarding house. See McGinnis Appeal, 57 A.2d 108 (1982), cert. denied, 103 Sup. Ct. 2121 (1983). If the living unit satisfies the definition of "family", then it cannot be a rooming or boarding house.

As for the Petitioners' contention that the proposed use is a community care facility, it needs to be pointed out that the BCZR requires licensure by either the Department of Health and Mental Hygiene or the Department of Social Services, neither of which has licensed this facility. The proposed use cannot therefore be a community care center. Further, a facility does not fall within the definition of a community care center if its use satisfies the definition of "family". Living arrangements meeting the definition of

- 9 -

"family" are permitted as a matter of right in all residential zones. Living arrangements for handicapped people that operate as a single-housekeeping unit, as defined by the aforesaid characteristics, would constitute a "family" for zoning purposes and are unaffected by the community care center provisions. Commonly of small size and always possessing a family-like atmosphere, most of the group homes and ALU's would satisfy the definition of "family" and are consequently not community care centers.

In Howard County Assoc. for Retarded Citizens, Inc. v. Howard County Bd. of Appeals, Case Nos. 10609 and 10633, Circuit Court for Howard County, December 15, 1976, the Court was asked to prohibit a group home from being located in a residential zone as a matter of right. The Howard County zoning ordinance defined "family" as "[a] person living alone, or 2 or more persons living together as a housekeeping unit, with separate identity from other persons or groups in the same structure, having cooking facilities as a part of the area designated for his or their use." In a Memorandum Opinion, the Court examined a number of cases decided by courts in other states and decided that the group home proposed in Howard County satisfied the Howard County Zoning Regulations' definition of "family", and therefore, it was permitted as a matter of right.

This case involved the Howard County Association for Retarded Children (Association), a non-profit corporation, which proposed to purchase a single-family, five bedroom dwelling in a residential area. The dwelling had the home of a husband and wife and their seven children and the husband's father. The Association intended to use the dwelling as a group home for no more than eight "patients", all retarded and over the age of 18, and two supervisors. Each was required to contribute money to help defray the costs of operation. There was no particular room or space assigned to anyone,

- 10 -

and the housekeeping facilities, such as the kitchen, were for their common use.

The use of the dwelling in controversy here will be substantially as before although the purpose is different. Zoning, however, is concerned with use and not with ownership nor with the purposes of the owners or occupants. Mayor and City Council v. Poe, 224 Md. 428 (1960). This Court concludes that the use in question is permitted as a matter of right under the definition of "family" in the Howard County Zoning Regulations...

It is therefore clear that the proposed use by UCP is permitted as a matter of right. To describe otherwise would create a constitutional deprivation of due process under Boraas, supra. This conclusion makes it unnecessary to consider the other issues raised, i.e., preemption or implied preemption by State law which prohibits local jurisdictions from restricting or regulating those programs established by the State. See Article XI-A, Section 3, Md. Const.; 63 Op. Atty. Gen. 377 (July 21, 1978) (which examined the authority of county governments to restrict group residential facilities); and Sections 7-416, 7-2A-01, and 10-518, Health-Gen. Art., Md. Code.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief prayed for should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 7th February, 1986, that the group home proposed by UCP is permitted as a matter of right in a residential zone.

[Signature]
Zoning Commissioner of Baltimore County

cc: S. Eric DiNenna, Esquire
Richard D. Gelfman, Esquire
People's Counsel

- 11 -

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described as follows: 5904 Point Pleasant Road in the 6th Councilmatic District of Baltimore County, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a community care center/group home in a DR 5.5 R zone located at 5904

Point Pleasant Road in the 6th Councilmatic District of Baltimore County, owned by Dorothy Kuchik, pursuant to Sec. 1801.1 C.6A, and in conflict with Sec. 1801.1B of B.C.Z.R. Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.: 296-6820

Legal Owner(s):

GENE FULLANO, 6000 Pt. Pleasant Road, Baltimore, MD 21206

Signature

EDWARD TROVATO

(Type or Print Name)

Signature

5909 Daybreak Terrace

Address

Baltimore, Maryland 21206

City and State

S. Eric DiNenna

Name

406 W. Pennsylvania Ave. 296-6820

Address

Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 12th day of December, 1985, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore

County, on the 20th day of January, 1986, at 10:15 o'clock

[Signature]
Zoning Commissioner of Baltimore County.

(over)

IN RE: PETITION FOR SPECIAL HEARING 5904 Point Pleasant Road 14th Election District GENE FULLANO, ET AL

BEFORE THE COUNTY BOARD OF APPEALS Case No.: 86-274-SPH

ORDER OF DISMISSAL

Upon the foregoing Motion to Dismiss, it is ORDERED this 14th day of October, 1986, by the County Board of Appeals of Baltimore County, that the Petition for Special Hearing is hereby dismissed without prejudice.

[Signature]
William T. Hackett, Chairman

[Signature]
Lawrence E. Schmidt

[Signature]
Patricia Phipps

IN RE: PETITION FOR SPECIAL HEARING 5904 Point Pleasant Road 14th Election District GENE FULLANO, ET AL

BEFORE THE COUNTY BOARD OF APPEALS Case No.: 86-274-SPH

MOTION TO DISMISS

MR. CHAIRMAN:

Now Comes Edward Trovato and Frank Raspa, by S. Eric DiNenna and S. Eric DiNenna, P.A., and moves that the Petition for Special Hearing filed herein, by dismissed without prejudice; the parties hereto have reached an agreement and the subject property is no longer the subject of any controversy.

[Signature]
S. ERIC DINENNA
S. ERIC DINENNA, P.A.
406 West Pennsylvania Avenue
Towson, Maryland 21204
(301) 296-6820

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 3rd day of October, 1986, a copy of the foregoing Motion to Dismiss was mailed, postage prepaid, to Gelfman, Gelfman & Lyon, P.A., Attorneys at Law, and Richard D. Gelfman, Esquire, Oakland Ridge Professional Building, 9123 Old Annapolis Road (Route 108) Columbia, Maryland 21045; Phillis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 223, Court House, Towson, Maryland 21204.

[Signature]
S. ERIC DINENNA



County Board of Appeals of Baltimore County

Room 200 Court House

Towson, Maryland 21204

(301) 494-3180

October 14, 1986

S. Eric DiNenna, Esq.
406 W. Pennsylvania Ave.
Towson, Md. 21204

Dear Mr. DiNenna: Re: Case No. 86-274-SPH Gene Fullano, et al

Enclosed herewith is a copy of the Order of Dismissal passed today by the County Board of Appeals in the above entitled matter.

Very truly yours,

[Signature]
June Holmen, Secretary

Encl.
cc: Mr. Gene Fullano
Mr. Edward Trovato
Richard D. Gelfman, Esq.
Mr. Frank Raspa
Phyllis C. Friedman
Malcolm F. Spicer, Jr., Esq.
James F. Garrity, Esq.
Norman E. Gerber
James Hoswell
Arnold Jablon
Jean Jung
James E. Dyer

Case No. 86-274-SPH 5904 Point Pleasant Road
Item No. 137 14th Election District
Date: March 7, 1986 Gene Fullano, et al, Petitioners

- ☒ 1. Copy of Petition
☐ 2. Copy of Description of Property
☒ 3. Copy of Certificate of Posting (1 Sign)
☒ 4. Copy of Certificates of Publication
☒ 5. Copy of Zoning Advisory Committee Comments
☒ 6. Copy of Comments from the Director of Planning
☐ 7. Planning Board Comments and Accompanying Map
☒ 8. Copy of Order to Enter Appearance
☒ 9. Copy of Order - Zoning/Deputy Zoning Commissioner
☒ 10. Copy of Plat of Property
☐ 11. 200' Scale Location Plan
☐ 12. 1000' Scale Location Plan
☐ 13. Memorandum in Support of Petition
☐ 14. Letter(s) from Protestant(s)
☐ 15. Letter(s) from Petitioner(s)
☒ 16. Protestants' Exhibits 1 to Community Development Block Grant Contract
☒ 17. Petitioners' Exhibits 1 to Neighborhood Petition.
☒ 18. Letter of Appeal
☒ 19. 4 Subpoena's
☒ 20. Answer to the Petition for Special Hearing
- Mr. Gene Fullano Petitioner
6000 Point Pleasant Road
Baltimore, MD 21206
- Mr. Edward Travato Petitioner
5909 Daybreak Terrace
Baltimore, MD 21206
- S. Eric DiNenna, Esquire Attorney for Petitioners
406 W. Pennsylvania Avenue
Towson, MD 21204
- Richard D. Gelfman, Esquire Attorney for Protestant
Oakland Ridge Professional Bldg.
9123 Old Annapolis Rd. (Rt. 108)
Columbia, MD 21045
- Phyllis C. Friedman, Esquire People's Counsel
- REQUEST NOTIFICATION: Norman E. Gerber, James Hoswell, Arnold Jablon,
Jean M. H. Jung, James E. Dyer



County Board of Appeals of Baltimore County
Room 200 Court House (Hearing Room #218)
Towson, Maryland 21204
(301) 494-3180

NOTICE OF POSTPONEMENT and REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 86-274-SPH GENE FULLANO, ET AL
5904 Point Pleasant Road
14th District
SPH-A community care center/group home in a DR 5.5 zone without benefit of the acquisition of a special exception
2/7/86 - Z.C.'s Order - SPH Denied
The above case, set for hearing on Wednesday, July 30, 1986, at 10 a.m., HAS BEEN POSTPONED by the Board at the request of the attorney for Protestant, United Cerebral Palsy, and
REASSIGNED FOR: THURSDAY, OCTOBER 2, 1986, at 10 a.m.
cc: Mr. Gene Fullano Petitioner
Mr. Edward Travato Petitioner-Appellant
S. Eric DiNenna, Esq. Counsel for Petitioners
Richard D. Gelfman, Esq. Counsel for Protestant-United Cerebral Palsy
Frank Raspa Appellant
Phyllis C. Friedman People's Counsel
Norman Gerber
James Hoswell
Arnold Jablon
Jean Jung
James Dyer

June Holmen, Secretary

4/16/86 - Notified of appeal hearing scheduled for WEDNESDAY, JULY 30, 1986 at 10 a.m.

Mr. Gene Fullano
Mr. Edward Travato
S. Eric DiNenna, Esq.
Richard D. Gelfman, Esq.
Frank Raspa
Phyllis C. Friedman

7/24/86 - Above notified of postponement and rescheduling of case for Oct. 2, '86, at 10 a.m.

Case No. 86-274-SPH

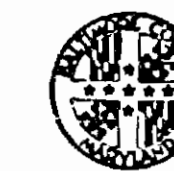
BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this 26th day of November, 1985.

Petitioner Gene Fullano, et al
Petitioner's S. Eric DiNenna, Esquire
Attorney

Received by: James E. Dyer, Jr.
Chairman, Zoning Plans
Advisory Committee



County Board of Appeals of Baltimore County
Room 200 Court House (Hearing Room #218)
Towson, Maryland 21204
(301) 494-3180
April 16, 1986

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 86-274-SPH GENE FULLANO, ET AL
5904 Point Pleasant Road
14th District
SPH-A community care center/group home in a DR 5.5 zone without benefit of the acquisition of a special exception
2/7/86 - Z.C.'s Order-SPH Denied
ASSIGNED FOR: WEDNESDAY, JULY 30, 1986, at 10 a.m.

cc: Mr. Gene Fullano Petitioner
Mr. Edward Travato Petitioner-Appellant
S. Eric DiNenna, Esq. Counsel for Petitioners
Richard D. Gelfman, Esq. Counsel for Protestant-United Cerebral Palsy
Frank Raspa Appellant
Phyllis C. Friedman People's Counsel
Norman Gerber
James Hoswell
Arnold Jablon
Jean Jung
James Dyer

June Holmen, Secretary

IN RE: PETITION FOR SPECIAL HEARING
5904 Point Pleasant Road - 14th Election District
BEFORE THE BOARD OF APPEALS
OF BALTIMORE COUNTY
CASE NO. 86-274-SPH

APPEARANCE

Please enter the appearance of Malcolm F. Spicer, Jr., County Attorney and James F. Garrity, Assistant County Attorney, on behalf of Baltimore County, Maryland in the above captioned case which is scheduled for a hearing at 10:00 a.m. on July 30, 1986.

Malcolm F. Spicer, Jr.
County Attorney
James F. Garrity
Assistant County Attorney

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 25th day of April, 1986, a copy of the foregoing appearance was mailed, postage prepaid, to S. Eric DiNenna, DiNenna, Mann & Breschi, 406 W. Pennsylvania Avenue, Towson, Maryland 21204, and Gelfman, Gelfman & Lyon, P.A., Attorneys at Law, and Richard D. Gelfman, Esquire, Oakland Ridge Professional Building 9123 Old Annapolis Road, (Route 108) Columbia, Maryland 21045, Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 223, Courthouse, Towson, Maryland 21204.

James F. Garrity
Assistant County Attorney
Courthouse Mezzanine
Towson, Maryland 21204

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon
TO: Zoning Commissioner Date: January 17, 1986
Norman E. Gerber, AICP, Director
FROM: Office of Planning and Zoning
SUBJECT: Zoning Petition No. 86-274-SPH

In view of the subject of this petition, this office offers no comment.

NEG:JGH:sim

Norman E. Gerber, AICP
Director

Case No. 86-274-SPH Gene Fullano, et al

The Board is in receipt of a letter of July 22, 1986, from Dick Gelfman, requesting a postponement of the hearing on Case No. 86-274-SPH, scheduled for July 30, 1986, at 10 a.m.

The Board's rules require that all requests for postponements be received 15 days prior to the scheduled hearing date unless extreme circumstances are noted. No such circumstances are claimed in the July 22nd communication. The Board will, however, note that agreement on granting a postponement has apparently been reached among all parties. Therefore the Board will grant the request for a postponement and will reschedule the hearing for 10 a.m. on Oct. 2, 1986.

Gelfman, Gelfman & Lyon, P.A.
Attorneys at Law
Oakland Ridge Professional Building
9123 Old Annapolis Road (Rt. 108)
Columbia, Maryland 21045

801 000-1004

July 22, 1986

County Board of Appeals of Baltimore County
Room 200
Court House
Towson, Maryland 21204

Hearing - July 30, 1986 at 10:00 a.m.
Re: Case No. 86-274-SPH
Petition for Special Hearing
5904 Point Pleasant Road -
14th Election District

Gentlemen:

Please be advised that United Cerebral Palsy of Central Maryland, Inc. would like to postpone the above-captioned hearing. Although the appeal was originally noted by opposing counsel, I have discussed this matter with him and he has no objection to a postponement.

Before setting this matter back in for a hearing, I would appreciate it if you would contact all counsel in this case with potential dates so that our schedules can be coordinated.

Sincerely,

GELFMAN & GELFMAN, P.A.

Dick Gelfman
Attorney for UCP

DG/ps
cc: S. Eric DiNenna, Esquire

ps sent
Oct. 2 per H.

RECEIVED
COUNTY BOARD OF APPEALS
JUL 24 9 52

DINENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DINENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
ROBERT A. BRESCHI

406 WEST PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204
(301) 276-6820

October 2, 1986

Chairman
County Board of Appeals
of Baltimore County
Room 200
Court House
Towson, Maryland 21204

RE: Case No.: 86-274-SPH
5904 Point Pleasant Road

Dear Mr. Chairman:

Enclosed herewith please find a Motion to Dismiss and accompanying order of Dismissal concerning the above-captioned matter.

Thank you for your cooperation in this matter. Upon execution of the Order of Dismissal, please forward a copy to all parties.

Very truly yours,

S. ERIC DINENNA

SED:kar

Enclosures

cc: Richard D. Gelfman, Esquire
Mr. Edward Trovato
Ms. Phillis Friedman

DINENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DINENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
ROBERT A. BRESCHI

406 WEST PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204
(301) 276-6820

September 23, 1985

Zoning Commissioner's Office
Office of Planning and
Zoning
County Office Building
Towson, Maryland 21204

RE: 5904 Point Pleasant Road
Special Hearing

Dear Mr. Commissioner:

Enclosed herewith please find the original and three copies of the Petition for Special Hearing, along with a check in the amount of \$35.00 representing the filing costs. It is my understanding that a plat and description is not necessary inasmuch as this is an interpretation request special hearing.

Very truly yours,

S. ERIC DINENNA

SED/neb

Enc.

cc: Mr. Gene Fullano
cc: Mr. Edward Trovato
cc: David M. Lyon, Esquire (with enclosure)

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204-2586
494-4500

PAUL H. REINGKE
CHIEF

November 20, 1985

Mr. Arnold Jablon
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Gene Fullano, et al

Location: 5904 Point Pleasant Road

Item No.: 137 Zoning Agenda: Meeting of October 22, 1985

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *[Signature]* Noted and Approved: *[Signature]*
Planning Group
Special Inspection Division

/mb

86-274-

1120

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

December 11, 1985

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

S. Eric Dinenna, Esquire
406 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Item No. 137 - Case No. 86-274-SPH
Petitioners - Gene Fullano, et al
Special Hearing Petition

Dear Mr. Dinenna:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above-referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

[Signature]
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:nr

Enclosures

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
494-3211

NORMAN E. GENDER
DIRECTOR

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

JANUARY 10, 1986

Re: Zoning Advisory Meeting of October 22, 1985
Item # 137
Property Owner: Gene Fullano, et al
Location: 5904 Point Pleasant Road

Dear Mr. Jablon:

The Division of Current Planning and Development has reviewed the subject petition and offers the following comments. The items checked below are applicable.

- (X) There are no site planning factors requiring comment.
- () A County Review Group Meeting is required.
- () A County Review Group Meeting was held and the minutes will be forwarded by the Bureau of Public Services.
- () This site is part of a larger tract; therefore it is defined as a subdivision. The plan must show the entire tract.
- () A record plat will be required and must be recorded prior to issuance of a building permit.
- () The access is not satisfactory.
- () The circulation on this site is not satisfactory.
- () The parking arrangement is not satisfactory.
- () This property contains soils which are defined as wetlands, and development on these soils is prohibited.
- () Construction in or alteration of the Floodplain is prohibited under the provisions of Section 22-89 of the Development Regulations.
- () Development of this site may constitute a potential conflict with the Baltimore County Master Plan.
- () The amended development plan was approved by the Planning Board on _____.
- () The proposed project must comply with Baltimore County Landmarks Panel.
- () The property is located in a deficient service area as defined by Bill 178-79. No building permit may be issued until a Reserve Capacity Use Certificate has been issued. The deficient service is _____.
- () The property is located in a traffic area controlled by a "T" level intersection as defined by Bill 178-79, and as conditions change are re-evaluated annually by the County Council.
- () Additional comments: _____

cc: James Hovell

Europe A. Sobor
Chief, Current Planning and Development

BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

STEPHEN E. COLLINS
DIRECTOR

November 15, 1985

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. -ZAC-
Property Owner: 137
Location: Gene Fullano, et al
Existing Zoning: 5904 Point Pleasant Road
Proposed Zoning: D.R. 5.5

Special Hearing to approve a community care center/group home in a D.R. 5.5 zone, located at 5904 Point Pleasant Road without benefit of the acquisition of Special Exception pursuant to Sec. 1801.1 C.6A and in conflict with Sec. 1801.1B of B.C. Z. R.

Acres:
District: 14th

Dear Mr. Jablon:

The Department of Traffic Engineering has not received a plan for this item.

[Signature]
Michael S. Flanagan

MSP/bld

1/20
86-274-SPH

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3610

TED ZALESKI, JR.
DIRECTOR

November 22, 1985

"NO PLANS"

Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item # 137 Zoning Advisory Committee Meeting are as follows:

Property Owner: Gene Fullano, et al
Location: 5904 Point Pleasant Road
District: 14th.

APPLICABLE ITEMS ARE CIRCLED:

- (X) All structures shall conform to the Baltimore County Building Code as adopted by Council Bill #17-85, the Maryland Code for the Handicapped and Aged (A.M.S.I. #117-1 - 1980) and other applicable Codes and Standards.
- B. A building and other miscellaneous permits shall be required before the start of any construction.
- C. Residential: Two sets of construction drawings are required to file a permit application. The seal of a Registered Professional Engineer or Architect is not required on plans and technical data.
- D. Commercial: Three sets of construction drawings sealed and signed by a registered Professional Engineer or Architect shall be required to file with a permit application. Approved seals are not acceptable.
- E. All One Group except B-1 Single Family Detached Dwellings require a minimum of 1 hour fire rating for exterior walls closer than 6'-0" to an interior lot line. All One Groups require a one hour wall if closer than 3'-0" to an interior lot line. Any wall built on an interior lot line shall require a fire or party wall. See Table 401, Section 401.1, Section 401.2 and Table 1401. No openings are permitted in an exterior wall within 3'-0" of an interior lot line.
- F. The structure does not appear to comply with Table 505 for permissible height/area. Reply to the requested variance by this office cannot be considered until the necessary data pertaining to height/area and construction type is provided. See Table 401 and 505 and have your architect/engineer contact this department.
- G. The requested variance appears to conflict with Section(s) _____ of the Baltimore County Building Code.
- H. When filing for a required Change of Use/Occupancy Permit, an alteration permit application shall also be filed along with three sets of acceptable construction plans indicating how the existing structure is to be altered in order to comply with the Code requirements for the new use. Maryland Architectural or Engineer seals are usually required. The change of Use Group are from Use _____ to Use _____ or to Mixed Use. See Section 312 of the Building Code.
- I. The proposed project appears to be located in a Flood Plain, Flood Hazard. Please see the attached copy of Section 516.0 of the Building Code as adopted by Bill #17-85. Site plans shall show the correct elevations above sea level for the lot and the finished floor levels including basement.
- (X) Comments: Permits for Day Care Center usage in existing or new buildings so designed shall be the responsibility of the owner or a bonafide agent.

These abbreviated comments reflect only on the information provided by the drawings submitted to the Office of Planning and Zoning and are not intended to be construed as the full extent of any permit. To receive the applicant's full information, please visit Room 122 of the County Office Building at 111 W. Chesapeake Avenue, Towson, Maryland 21204.

[Signature]
C. E. Burman, Chief
Building Plans Section

L/22/85

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

86-274-SPH

District: 14th Date of Posting: 1/28/86

Posted for: Appeal

Petitioner: Gene Fullano, et al

Location of property: 5904 Point Pleasant Rd.

Location of Sign: 14th & Point Pleasant Rd., across 12th Ex. road

Remarks: Re: Property of Fullano

Posted by: *[Signature]*

Signature

Number of Signs: 1

Date of return: 1/14/86

86-274-SPH 14th District
5904 Point Pleasant Road
Gene Fullano, et al
1 SIGN

IN RE: PETITION FOR SPECIAL HEARING
5904 Point Pleasant Road - 14th Election District

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY
Case No. 86-274-SPH

ORDER OF APPEAL

Mr. Commissioner:

Please enter an Appeal from your Findings of Fact and Conclusions of Law, concerning the above-captioned matter, dated February 7, 1986, to the County Board of Appeals for Baltimore County, on behalf of the following: Edward Trovato, 5909 Daybreak Terrace, Baltimore, Maryland 21206 and Frank Raspa, 5906 Point Pleasant Road, Baltimore, Maryland 21206;

It is respectfully requested that this matter be renamed in the Baltimore County, Maryland No. 018462

OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE 1-10-86 ACCOUNT B-01-415-000
AMOUNT \$ 80.00
RECEIVED FROM S. T. DiNenna, Esquire

Appeal of Case No. 86-274 - Gene Fullano, et al
BID ***** 1116F
Validation or Signature of Cashier
Gelfman, Esquire, Oakland Ridge Professional Building, 9123 Old Annapolis Road (Route 108) Columbia, Maryland 21045;

Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 223, Court House, Towson, Maryland 21204.

S. ERIC D. NENNA

PETITION FOR SPECIAL HEARING
14th Election District
LOCATION: 5904 Point Pleasant Road

DATE AND TIME: Monday, January 20, 1986 at 10:15 a.m.
PUBLIC HEARING: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Special Hearing for a community care center/group home in a D.R. 5.5 zone.

Being the property of Gene Fullano, et al as shown on the plat filed with the Zoning Office.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF
ARNOLD JABLON
ZONING COMMISSIONER
OF BALTIMORE COUNTY

RE: THE MATTER OF THE PETITION FOR SPECIAL HEARING FOR 5904 POINT PLEASANT ROAD : BEFORE THE ZONING COMMISSIONER : OF BALTIMORE COUNTY : Case No. 137

ANSWER TO THE PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

United Cerebral Palsy of Central Maryland, Inc., by and through its attorney, Richard D. Gelfman and Gelfman, Gelfman and Lyon, P. A. in response to the Petition filed herein by GENE FULLANO and EDWARD TROVATTO, Petitioners, states as follows:

1. That United Cerebral Palsy of Central Maryland, Inc. (UCP) is a contract purchaser for the subject property and therefore should be included as an interested party in the above captioned matter.

2. That the use of the subject property does fall and shall continue to fall within the definition of a family as defined in the Baltimore County Zoning Regulation and therefore needs no special exception nor approval by this Commission.

Richard D. Gelfman
Gelfman, Gelfman & Lyon, P. A.
Oakland Ridge Professional Bldg.
9123 Old Annapolis Road (Rt 108)
Columbia, Maryland 21045
Telephone: (301) 995-1824
Attorney for United Cerebral Palsy

GELFMAN, GELFMAN & LYON, P.A.
OAKLAND RIDGE PROFESSIONAL BLDG.
9123 OLD ANNAPOLIS RD.
CITY 108
COLUMBIA, MD. 21045
995-1824

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 29th day of October, 1985, a copy of the foregoing Answer to the Petition for Special Hearing, was mailed, postage prepaid to S. Eric DiNenna, Esquire, at 406 West Pennsylvania Avenue, Towson, Maryland 21204.

Richard D. Gelfman

GELFMAN, GELFMAN & LYON, P.A.
OAKLAND RIDGE PROFESSIONAL BLDG.
9123 OLD ANNAPOLIS RD.
CITY 108
COLUMBIA, MD. 21045
995-1824

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
5904 Point Pleasant Rd., 14th District : OF BALTIMORE COUNTY
GENE FULLANO, et al, Petitioners : Case No. 86-274-SPH

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, Maryland 21204
474-2188

I HEREBY CERTIFY that on this 20th day of December, 1985, a copy of the foregoing Entry of Appearance was mailed to S. Eric DiNenna, Esquire, 406 W. Pennsylvania Ave., Towson, MD 21204, Attorney for Petitioners; and Dorothy Kucik, 5904 Point Pleasant Road, Baltimore, MD 21206, owner of subject property.

Peter Max Zimmerman
Peter Max Zimmerman

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

January 16, 1986

S. Eric DiNenna, Esquire
406 West Pennsylvania Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing
5904 Point Pleasant Road
14th Election District
Gene Fullano - Petitioner
Case No. 86-274-SPH

Dear Mr. DiNenna:

This is to advise you that \$47.84 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

THIS FEE MUST BE PAID AND THE ZONING SIGN AND POST RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Do not remove sign from property from the time it is placed by this office until the day of the hearing.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE 1/14/86 ACCOUNT B-01-415-000
AMOUNT \$ 47.84

RECEIVED FROM S. T. DiNenna
FOR Baltimore County, Md. 86-274-SPH
Validation or Signature of Cashier

MAP 40-5
E.D. 14
DATE 1-18-87
200
1000
DP

#137
86-274-SPH

86-274-SPH
#137

86-274-SPH
#137

ORDER RECEIVED FOR FILING
DATE 1-18-87
BY [Signature]
ADMINISTRATIVE ASSISTANT

IN RE: PETITION SPECIAL HEARING * BEFORE THE
5904 Point Pleasant Road - * ZONING COMMISSIONER
14th Election District * OF BALTIMORE COUNTY
Gene Fullano, et al, *
Petitioners * Case No. 86-274-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request an interpretation by the Zoning Commissioner as to the placement of a "group home" in their neighborhood.

The Petitioners, area residents, appeared and were represented by Counsel. The property owner, United Cerebral Palsy of Maryland, Inc. (UCP), also appeared and was represented by Counsel. Lisa Torgerson, Director of Adult Services for UCP, although called by the Petitioners to testify, was the only witness for both sides.

Testimony indicated that UCP purchased a three-bedroom, single-family detached dwelling on property zoned D.R.5.5 and located at 5904 Point Pleasant Road for the purpose of establishing an alternative living unit (ALU) for three adults afflicted with cerebral palsy. The Petitioners believe that such a facility cannot be located in a residential zone as a matter of right but only by special exception for either a community care center or rooming house. UCP argued conversely that the proposed use satisfies the definition of "family" in Section 101, Baltimore County Zoning Regulations (BCZR), and since single-family dwellings are permitted as a matter of right in residential zones, the proposed use should be allowed without a special exception.

Ms. Torgerson testified that UCP operates ten similar ALU's within Baltimore County, each housing three adults afflicted with cerebral palsy, for the purpose of providing residential living alternatives to the institutionalization of individuals with severe handicaps such as cerebral palsy. Inasmuch as

these individuals cannot always provide a full range of movement by themselves, UCP supplements their living arrangement with professional counselors who may supervise and assist the residents with physical mobility, personal hygiene, household and related chores that require physical exertion beyond their physical capability, and food preparation. The counselors, who work in shifts, do not reside at the facility but do share meals with the residents while on duty.

The residents' daily routine corresponds with that of a typical family, i.e., preparing and eating meals together, sharing a common kitchen, leaving the home for their daily tasks, returning in the late afternoon, and sharing their leisure time. During the week, the residents leave the home for vocational rehabilitation, employment, or educational advancement. There would be no training, rehabilitation programs, or medical treatment provided in the home. Each of the residents share the responsibility of maintaining the house and contribute financially to UCP what each can afford. The subject dwelling is owned by UCP, and the residents are not on the deed nor are they responsible for the mortgage. The only renovations to the house will be the erection of an outside ramp and interior alterations to accommodate the residents' wheelchairs.

It is expected that these people will be long-term residents of the house as they will probably require assistance for life. They would not be expected to leave unless there were a change in their physical condition or hospitalization were required. There are no restrictions placed upon their movements beyond those created by their own physical handicaps. Additionally, ALU is certified by the State Department of Mental Hygiene and must satisfy certain criteria established by the State prior to the residents being accepted. In-

deed, the shortest time anyone has stayed in a UCP operated ALU was two years.

The Petitioners request, pursuant to Section 500.7, BCZR, that the Zoning Commissioner determine that the proposed use is either a community care facility or rooming house, both of which would require a special exception. They argued that the proposed use does not meet the definition of "family", as found in the BCZR, and therefore, the use cannot be located in a residential zone as a matter of right.

Government alone is not presently able to cope with the placement of those persons impaired either physically or psychologically. The State and County must provide the means by which such people can be returned to the community and contribute to the well-being of that community. A large body of Federal and State law, together with a professional consensus, has emerged concerning the necessity of deinstitutionalization and community residential living for handicapped persons. Requirements for deinstitutionalization and treatment and rehabilitation programs in the "least restrictive alternative" have been found to be mandated under Federal statutes, i.e., the Developmental Disabilities Assistance and Bill of Rights Act and Section 504 of the Rehabilitation Act of 1973, and under many State laws. Frequently, the right to community alternatives rather than institutionalization has been enforced by judicial decisions. See, e.g., Gary W. v. State of Louisiana, 437 F Supp. 1209 (E.D. La., 1976); Welsch v. Likins, 373 F Supp. 487 (D Minn., 1974); Halperman v. Pennhurst State School & Hospital, 446 F Supp. 1295 (E.D. Pa., 1978); Lynch v. Baxley, 386 (1974).

The importance of deinstitutionalization and the provision of community residential alternatives is clearly recognized in Maryland law. Strong statements favoring community alternatives to institutionalization have been

ORDER RECEIVED FOR FILING
DATE 1-18-87
BY [Signature]
ADMINISTRATIVE ASSISTANT

ORDER RECEIVED FOR FILING
DATE 1-18-87
BY [Signature]
ADMINISTRATIVE ASSISTANT

Inc. v. Family Homes of Wake County, Inc., 266 SE.2d 32 (N.C., 1980); Chil-dren's Home of Easton v. Easton, 417 A.2d 830 (Pa., 1980); Hopkins v. Zoning Hearing Bd. of Abington Township, 423 A.2d 1081 (Pa., 1980); Oliver v. Zoning Commissioner of Town of Chester, 226 A.2d 841 (Conn., 1974); and White Plains v. Ferraioli, 357 NYS.2d 449 (1974). See also 2 Rathkopf, The Law of Zoning and Planning, (4th Ed., 1984, and Cum. Supp.), Section 17A.05 at 17A-22 and 71 ALR 3d 693 (1976).

It is evident that there must be a kind of stability, permanency, and functional lifestyle exhibited which is equivalent to that of the traditional family unit in order for a group of unrelated persons living together as a single housekeeping unit to constitute a "family" in terms of a zoning regulation. When the zoning regulation does not limit the size of the "family" nor restrict as to blood, marriage, or adoption, the conditions as outlined above are presumptive that the regulation is satisfied. Any other conclusion would conflict with Moore, supra, and raise serious constitutional questions as to deprivation of due process rights guaranteed to the hand-capped.

There is no question that, in the instant matter, the conditions prece-dent for determining if the proposed use constitutes a "family" within the meaning of the BCZR do exist. Ms. Torgerson's uncontradicted testimony clearly established the permanency of the residency, the stability of the living arrangement, and the lifestyle of those who will reside in the dwell-ing, which will be exactly the same as that which is normally associated with the traditional family unit.

Although not precedent nor binding, a decision by Circuit Court Judge George B. Rasin, Jr., in County Commissioners of Caroline County v. Loscomby

ORDER RECEIVED FOR FILING
DATE 1-18-87
BY [Signature]
ADMINISTRATIVE ASSISTANT

implemented by various laws adopted by the State whenever appropriate. These statutes made the development of community programs not merely a desirable option but a legislatively imposed obligation. See Section 7-102, et al, Health-General Article.

Strong public policies exist for the establishment of alternatives to institutionalization. Any inconvenience to the local community pales into insignificance when contrasted with the right of people, who happen to be afflicted with a handicap, to live where they choose.

The BCZR defines "family" as "[a]ny number of individuals lawfully living together as a single housekeeping unit and doing their cooking on the prem-ises, as distinguished from a group occupying a boarding or rooming house or hotel."

In Moore v. City of East Cleveland, 431 US 494 (1977), the Supreme Court invalidated a Cleveland, Ohio ordinance under which a grandmother was being prosecuted for allowing her grandson to live with her. The Court held that such a restrictive definition of "family" invaded the right of family privacy and therefore had to be measured under a stricter standard of review than was applicable in Village of Belle Terre v. Boraas, 416 US 1 (1974), in which the Court ruled that a local ordinance that limited a "family" to persons related by blood, adoption, or marriage or to not more than two unrelated persons living together as a single-housekeeping unit was constitutional. As a result of the Moore, supra, decision, there would have to be sufficient governmental interest to justify the ordinance to pass constitutional muster. The Balti-more County ordinance, however, does not limit a "family" to blood, marriage, or adoption and does not limit the number of people living together. The ordinance, therefore, is what constitutes a "family" within the meaning of the

ORDER RECEIVED FOR FILING
DATE 1-18-87
BY [Signature]
ADMINISTRATIVE ASSISTANT

local law and whether any arbitrary determination would in turn violate due process constitutional strictures against discrimination.

The strong position taken by the State Legislature is to deinstitutionalize the handicapped by striving for community living arrangements. These alternatives, e.g., halfway houses, cooperative apartments, group homes, foster homes, family care programs, sheltered care facilities, et al, are contrasted with the typical, and traditional, residential institution where the physically and mentally handicapped have heretofore resided. Legislators in and out of Maryland have determined that it is in the best interest of the handicapped to leave these institutions and be relocated in the various alternatives mentioned. Community integration rather than isolation in rural or industrial areas is the goal. To accomplish this, it is obvious that the alternative living arrangements must be located within and integrated into the residential community. It is neither the purpose nor the intent here to review or judge the veracity of the objective sought. The sole responsibility is to review and apply the existing law.

Section 1B01.1A.1, BCZR, permits dwellings as a matter of right in D.R. zones, including, but not limited to, one-family detached houses. As in most local zoning codes, the word "family" is further defined. Some include limitations, as in Borras, supra, while others are rather broadly written, as in the BCZR. The issue of whether or not the UCP ALU constitutes a "family", defined by the BCZR as any number of individuals lawfully living together as a single-housekeeping unit and doing their cooking on the premises, is one of fact based on the circumstances under which the ALU is operated. Attention must be given to the length of stay of the residents, whether the house will be used for the treatment of persons not actually residing there, whether the residents conduct their lives independently from one another, and whether the

ORDER RECEIVED FOR FILING
DATE 1-18-87
BY [Signature]
ADMINISTRATIVE ASSISTANT

residents live and eat together as a unit. See Allied Services for the Handicapped, Inc. v. Zoning and Hearing Board of the City of Scranton, 459 A.2d 60 (Pa., 1983). The controlling factor in considering whether a group of unrelated individuals living together as a single-housekeeping unit consti-tutes a family, for the purpose of compliance with a zoning restriction, is whether the residents bear the generic characteristics of a relatively permanent functioning family unit. State v. Baker, 405 A.2d 368 (N.J., 1979). See, e.g., Pemberton Township v. State, 429 A.2d 360 (N.J., 1981), use of a residence as a group home for six to eight boys, aged 8 to 13, who had been adjudicated delinquent for minor offenses, to be a permissible single-family use of the dwelling as their residency would simulate the dynamics and functioning of a natural family; Y.W.C.A. v. Bd. of Adjustments Summit, 341 A.2d 356 (N.J., 1975), occupancy of a residence by ten adolescent girls permitted as a "family"; Bergen v. State, 364 A.2d 993 (N.J., 1976), a group home used for the residency of eight to twelve unrelated multi-handicapped preschool children under the care and supervision of two foster parents permitted as a "family"; Township of Washington v. Cent. Bergen Comm. Health, 383 A.2d 1194 (N.J., 1978), use of a residence for recovered mental patients, five unrelated women whose occupancy was permanent in character and not transitory, who shared the responsibilities for performing the ordinary tasks of cooking, cleaning, and shopping and who "present a picture very much akin to that of a traditional family and their lifestyle is not a transient or temporary nature...", permitted as a "family". Mongony v. Bevilacqua, 432 A.2d 661 (R.I., 1981); Saunders v. Clark County Zoning Dept., 421 NE.2d 152 (Ohio, 1981); Linn County v. City of Hiawatha, 311 NW.2d 95 (Iowa, 1981); Cosgrove v. Caromem House, Inc., 313 NW.2d 21 (Minn., 1981); J. T. Hobby & Son,

ORDER RECEIVED FOR FILING
DATE 1-18-87
BY [Signature]
ADMINISTRATIVE ASSISTANT

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 1124 Date of Posting: 12/17/85
Posted for: Special Hearing
Petitioner: Gene Fullano et al.
Location of property: No. 5904 Point Pleasant Rd., Towson, Md. 21204
Location of Sign: Gene Fullano et al., 5904 Point Pleasant Rd., Towson, Md. 21204
Remarks: Address location identified by Mark W. Thacker, Jr., Council Member
Posted by: [Signature] Date of return: 1/2/86
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., January 2, 1986
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on January 2, 1986.

THE JEFFERSONIAN,

[Signature]
Publisher

Cost of Advertising

22.00

Case No. 86-274

The Times

Middle River, Md., Jan 2, 1986

[Signature]
This is to certify, that the annexed

was inserted in The Times, a newspaper printed

and published in Baltimore County, once in each

of one successive

weeks before the 2nd day of

Jan, 1986

[Signature] Publisher.

December 20, 1985

S. Eric DiNenna, Esquire
406 W. Pennsylvania Avenue
Towson, Maryland 21204

NOTICE OF HEARING

Re: PETITION FOR SPECIAL HEARING
5904 Point Pleasant Road
14th Election District
Gene Fullano - Petitioner
Case No. 86-274-SPH

TIME: 10:15 a.m.
DATE: Monday, January 20, 1986
PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 012330
DATE: 1/4/86 ACCOUNT: P-01-17-100
AMOUNT: \$ 100.00
RECEIVED FROM: J. Eric DiNenna
FOR: 111 West Chesapeake #137
VALIDATION OF SIGNATURE OF CARRIER

2. Time of Performance and Duration of Agreement

This Agreement shall be considered to be terminated upon completion of the Program or at such time when the funds have been spent, whichever is first to occur, and shall be completed within eighteen months from the date of execution of this contract.

3. Compensation and Method of Payment

a. Compensation

The County shall, subject to the availability of funds from the U.S. Department of Housing and Urban Development, pay the Agency the sum of Seventeen Thousand Five Hundred Dollars (\$17,500) as full and complete payment for services rendered hereunder, in accordance with the budget contained in the Program which is attached hereto and made a part hereof marked Appendix C.

b. Method of Payment

After the Agency has a fully executed contract with the contractor, the County shall disburse funds upon submission to the County by the Agency of a Payment Authorization Form, hereinafter called "Payment Authorization," which reflects the cost of the work completed and approved for payment by the Agency and the County. The number and frequency of Payment Authorization will be determined by the construction contract between the Agency and the contractor in which the County shall be named as Escrow Agent.

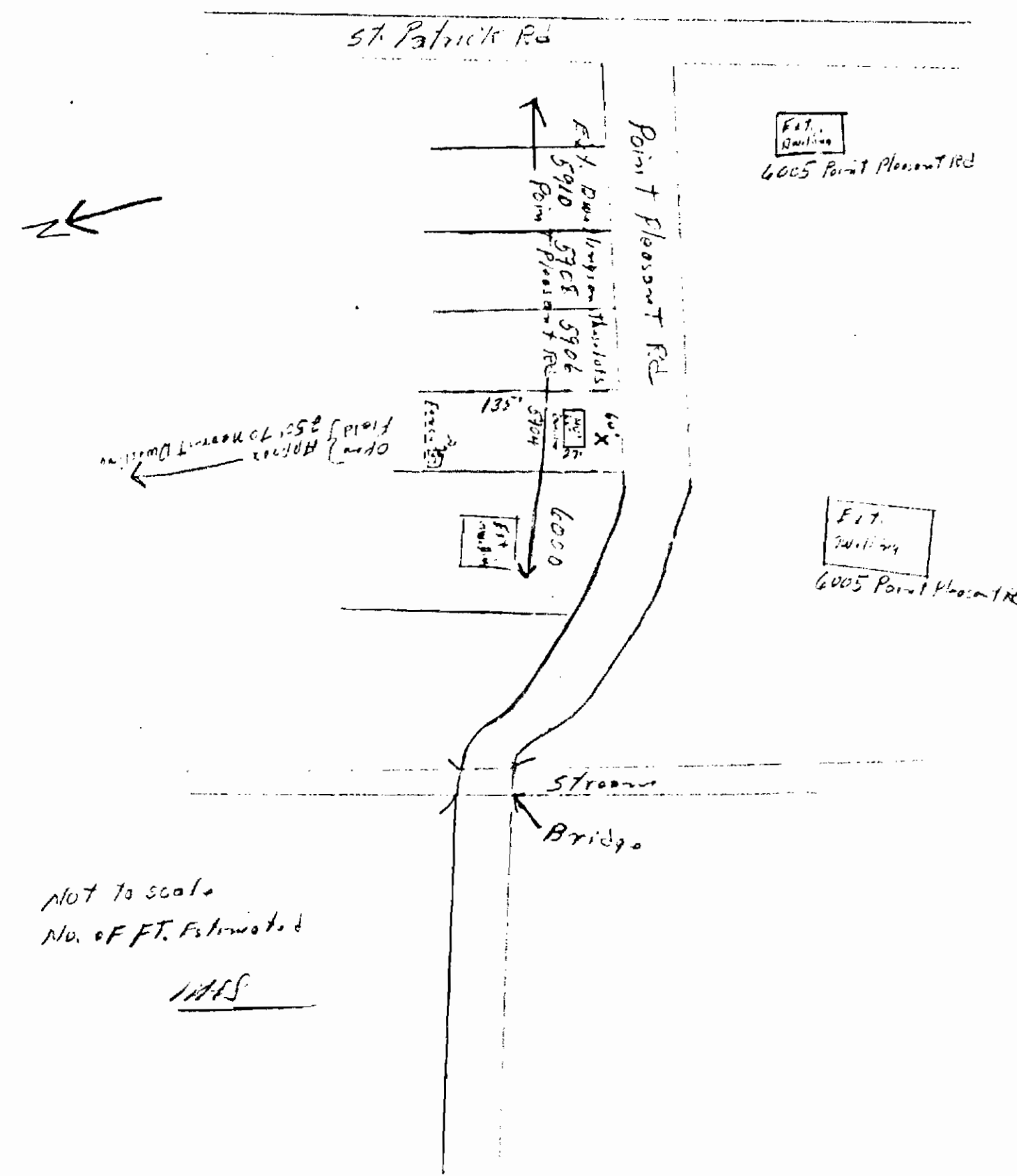
c. No expenditure which varies from the budget contained in Appendix C herein shall be incurred unless prior written approval is received by the Agency from the Project Director.

d. It is expressly understood and agreed that in no event will the total compensation and reimbursement, if any, to be paid hereunder exceed the maximum sum of Seventeen Thousand Five Hundred Dollars (\$17,500) for all services required.

e. The County assumes no obligation for funding beyond the term specified in this agreement.

4. Records

The accounting systems, procedures, and records of the Agency shall be in accordance with accounting procedures acceptable to the County and the U.S. Department of Housing and Urban Development. Records shall be maintained for a period of three years after receipt of the final payment under this Agreement. In the event Agency goes out of existence, it shall be required to turn over to the County and/or HUD all records relevant to the Program.



All costs shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or part to this Agreement shall be clearly identified and readily accessible.

5. Reports and Information

a. At such times and in such terms as HUD and/or the County may reasonably require, the Agency shall furnish such statements, records, reports and information as may be necessary pertaining to matters covered by this Agreement.

6. Audits and Inspections

At any time during normal business hours and at reasonable intervals as deemed necessary by the County, there shall be made available to the County and/or U.S. Department of Housing and Urban Development, for inspection and audit, all of the Agency's records with respect to all matters covered by this Agreement, and Agency will permit the County and/or HUD to make audits of all Contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

7. Conflict of Interest

a. Interest of Members of County

No officer, employee, or agent of the County who exercises any functions or responsibilities in connection with the planning and carrying out of the Program, or any other person who exercises any functions or responsibilities in connection with the Program shall have any personal financial interest, direct or indirect, in this Agreement and the Agency shall take appropriate steps to assure compliance.

THIS AGREEMENT, made this 19 day of Sept, 1985, by and between BALTIMORE COUNTY, MARYLAND, a body corporate and politic (hereinafter called "County") and UNITED CEREBRAL PALSY OF CENTRAL MARYLAND, INC., a private non-profit corporation for persons with handicapping conditions (hereinafter called "Agency").

WHEREAS, Title I of the Housing and Community Development Act of 1974 and subsequent Amendments (hereinafter called the "Act") provides for grants to local jurisdictions for acquisition and/or renovation of Residential Alternatives for the handicapped, and specifically activities eligible in, but not limited to Section 570:201 a, b, c, e, and k and 570:202 of the Rules and Regulations of the Community Development Block Grant Program as outlined in Federal Register, Vol. 43, No. 186, September 23, 1978, which is attached hereto and made a part hereof marked Appendix A.

WHEREAS, the County has designated the County Development Coordinator, hereinafter called "Project Director," as coordinator and monitor of programs in Baltimore County funded under the Act and the Coalition for Handicapped Persons provides technical advice to the "Project Director," and

WHEREAS, the County has received approval of a Community Development Block Grant application which contained funding for the below-mentioned project;

WHEREAS, the County desires to engage the Agency to render certain services in connection with said Community Development Block Grant Program,

NOW THEREFORE, the parties hereto do mutually agree as follows:

1. Scope of Services

The Agency shall, in a satisfactory and proper manner, as determined by the Project Director, perform the following services:

GENERAL:

These funds will be utilized for renovations of an Agency-owned single family dwelling unit at 5904 Point Pleasant Avenue, Baltimore, Maryland 21204. This housing renovation project is in accordance with the May 16, 1985 proposal entitled, "Proposal to Utilize Community Development Block Grant for Acquisition/Renovations of Alternative Living Units for United Cerebral Palsy of Central Maryland, Inc.," which is attached hereto and made a part hereof marked Appendix B.

b. Interest of Agency and Employees

(1) The Agency covenants that no person who presently exercises any functions or responsibilities in connection with the Program has any personal financial interest, direct or indirect, in the Program which would conflict in any manner or degree with the performance of his services hereunder. The Agency further covenants that in the performance of this Agreement, no person having any conflicting interest, shall be employed. Any interest on the part of the Agency, or its employees, must be disclosed to the Agency and HUD, and/or County. Provided, however, that this paragraph shall be interpreted in such manner so as not to impede unreasonably the statutory requirement that maximum opportunity be provided for employment of and participation by residents of the area. The Agency assures that it will incorporate the above provisions into every contract required to be in writing.

(2) By way of example, but without waiving the rights to approve or disapprove of other situations which may project a conflict of interest, the following situations are barred under the terms and provisions of this Agreement:

(a) No member of the Agency's Board of Directors may enter into a contract to perform services for the Agency without a full disclosure of all relevant facts and circumstances to the Project Director.

(b) It is expressly intended and agreed between the parties that the hereinbefore specified circumstances do not exhaust all possibilities of conflict of interest and that where such non-included circumstances arise, the Agency agrees to make full and complete disclosure to the Project Director for his or her determination which determination shall in all events be final.

8. Discrimination prohibited

a. In all hiring or employment made possible by the renovation contracts and subcontracts made by this Agreement: (1) there will not be any discrimination against any employee or applicant for employment because of race, color, religion, sex, handicapping conditions, or national origin, and (2) affirmative action will be taken to insure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, handicapping conditions, or national origin. This requirement shall apply to but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, lay-off or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. There shall be posted in conspicuous places available to employees and applicants for such employment, notices to be provided setting forth the provisions of this clause. All solicitations or advertisements for such employees shall state that all qualified applicants will receive consideration for such employment without regard to race, color, religion, sex, handicapping conditions, or national origin.

b. No person in the United States shall, on the grounds of race, sex, handicapping conditions, color, religion, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement.

9. Political Activity Prohibited

None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used in the performance of this Agreement for any partisan political activity or to further the election or defeat of any candidate for public office.

10. Lobbying Prohibited

None of the funds provided under this Agreement shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before the Congress, State Legislature or County Council.

11. Termination of Contract for Cause

a. If, through any cause, the Agency shall fail to fulfill in a timely and proper manner, its obligations under this Contract, or if the Agency shall violate any of the covenants, agreements or stipulations of this Contract, the Project Director shall thereupon have the right to terminate this Contract by giving written notice to the Agency of such termination and specifying the effective date thereof, at least five days before effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Agency under this Contract shall, at the option of the County, become the property of the County and the Agency shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

b. Notwithstanding the above, the Agency shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Agency, and the County may withhold any payments to the Agency for the purpose of set-off until such time as the exact amount of damages due the County from the Agency is determined.

12. Changes

The County may from time to time request changes in the scope of the services of the Agency to be performed hereunder. Such changes which consist of program modifications mutually agreed upon by and between the County and the Agency shall be incorporated in written amendments to this Agreement. The Agency may not deviate in any respect from the scope of services delineated without the written consent of the Project Director.

13. Personnel

a. The Agency represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees or have any contractual relationship with the County.

b. All of the services required hereunder will be performed by the Agency, contractors, and subcontractors and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under the State and local law to perform such services.

c. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the County. Any work or services subcontracted hereunder shall be by written contract or agreement and shall be expressly or by incorporation by reference, subject each subcontract or agreement to each provision of this Agreement.

14. Assignability

The Agency shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or novation) without prior written consent of the Project Director thereto.

15. Subcontracts and Other Agreements

The Agency shall not subcontract any portion of the services to be provided hereunder without the proper written consent of the County. The Agency further agrees that prior to the execution of any contract or other legal instrument concerning the services to be provided hereunder, it will submit said contract to the County for its prior written approval.

16. Failure of Internal Systems

The Agency further agrees that should its audit, reports, or internal system of control prove to be inadequate, in the determination of the County Auditor, that it will permit a designee of the County to enter upon its premises and perform all acts necessary and relevant to the establishment of a proper system of internal fiscal control. The County agrees that when the system or systems conform to proper accounting practices, it will return jurisdiction and control to the Agency and its employees.

17. Job Specifications

The Agency shall submit to the County for its review as to conformity with the qualifications of the contractors and subcontractors.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EFFECTED THIS AGREEMENT AND HAVE CAUSED THE RESPECTIVE CORPORATE SEALS TO BE AFFIXED HERETO:

BALTIMORE COUNTY, MARYLAND

Witness
Donald P. Hutchinson
County Executive
UNITED CEREAL FALSY OF
CENTRAL MARYLAND, INC.
Witness
Harold F. Borge, Jr.
President

REVIEW FOR FORM AND LEGAL SUFFICIENCY AND APPROVED FOR EXECUTION.

OFFICE OF LAW

James T. Smith, Jr.
Assistant County Attorney

BALTIMORE COUNTY COUNCIL

James T. Smith, Jr., Chairperson

934402
OFFICE OF FINANCE
6-05-67-10-07-31 \$17,500.00
Funds Available for Disbursement
9-285
m

-5-

MAKENDZ x 7.

43556 Federal Register / Vol. 48, No. 108 / Friday, September 23, 1983 / Rules and Regulations

Community Development Block Grant/
State Program—44,225 (only as
specified).

OMB Control Number
In accordance with the Paperwork
Reduction Act of 1980 (Pub. L. 96-511),
the reporting or recordkeeping
provisions that are not necessary for
the regulation have been or will be
submitted for approval to the Office of
Management and Budget (OMB).
Applicable OMB approval numbers are
included in the text of the regulation.

List of Subjects in 24 CFR Part 570
Community development block grants,
Grant programs: housing and community
development, Loan programs: housing
and community development, Low- and
moderate-income housing, New
communities, Pockets of poverty, Small
cities.

Accordingly, the Department amends
24 CFR Part 570 as follows:

PART 570—COMMUNITY
DEVELOPMENT BLOCK GRANTS

1. The Table of Contents to Subparts
A, B, C, D, E, F, G, H, and I of 24 CFR Part
570 is amended to read as follows:

Subpart A—General Provisions

Sec.
570.1 Purpose.
570.2 Definitions.
570.3 Allocation of funds.
570.4 Waivers.

Subpart B—(Reserved)

Subpart C—Eligible Activities
570.201 General policies.
570.202 Basic eligible activities.
570.203 Eligible planning and policy-
preservation activities.

Subpart D—Special economic development

570.204 Special activities by subgrantees.
570.205 Eligible planning and policy-
preservation—management—capacity
building activities.

Subpart E—Eligible activities

570.206 General policies.
570.207 Subgrantee requirements.
570.208 Certifications.
570.209 Making of grants.
570.210 Moving assistance plan.
570.211 Urban centers.

Subpart F—Other Program Requirements

570.300 General.
570.301 Public facilities and Pub. L. 90-204,
and Executive Order 11083.
570.302 Section 106 of the Act.

570.2 Labor standards.
570.203 Environmental standards.
570.204 Relocation and acquisition.
570.205 Employment and contracting
opportunities.
570.206 Land-based point.
570.207 Use of Federal, suspended or
expired, personnel for persons of low
and moderate income.
570.208 Use of Federal, suspended or
expired, personnel for persons of low
and moderate income.
570.209 Civil rights.
570.210 Displacement.

Subpart G—Loan Guarantees

570.201 Eligible activities.
570.202 Application requirements.
570.203 Loan requirements.
570.204 Federal guarantees.
570.205 Applicability of rules and
regulations.

Subpart H—Program Management

570.201 Review for compliance with primary
activities.

2. Subpart A of Part 570 is revised to
read as follows:

Subpart A—General Provisions

§ 570.1. Purpose.

(a) This Part describes policies and
procedures applicable to the following
programs authorized under Title I of the
Housing and Community Development
Act of 1974, as amended:

(1) Entitlement grant program
(Subpart D);

(2) Small Cities program: HUD-
administered CDBG nonentitlement
funds (Subpart F);

(3) State's program: State-
administered CDBG nonentitlement
funds (Subpart I);

(4) Secretary's Fund program (Subpart
J);

(5) Urban Development Action Grant
program (Subpart K); and

(6) Loan Guarantees (Subpart M).

(7) Subparts A, C, J, K and O apply to
all of the above programs administered
by HUD but do not apply to the State's
Program (Subpart I) except to the extent
expressly referred to in, for example, in
§ 570.4. (Until Subparts J, K and O are
amended to more completely reflect the
Housing and Community Development
Amendments of 1981, they should be
read as applying to the Entitlement
grants program in a manner which
recognizes the claims of the
applicant/requirements for grants
made in Federal Fiscal Year 1982 and
thereafter.)

(8) Loan Guarantees (Subpart M).

(9) Subparts A, C, J, K and O apply to
all of the above programs administered
by HUD but do not apply to the State's
Program (Subpart I) except to the extent
expressly referred to in, for example, in
§ 570.4. (Until Subparts J, K and O are
amended to more completely reflect the
Housing and Community Development
Amendments of 1981, they should be
read as applying to the Entitlement
grants program in a manner which
recognizes the claims of the
applicant/requirements for grants
made in Federal Fiscal Year 1982 and
thereafter.)

(10) Subparts A, C, J, K and O apply to
all of the above programs administered
by HUD but do not apply to the State's
Program (Subpart I) except to the extent
expressly referred to in, for example, in
§ 570.4. (Until Subparts J, K and O are
amended to more completely reflect the
Housing and Community Development
Amendments of 1981, they should be
read as applying to the Entitlement
grants program in a manner which
recognizes the claims of the
applicant/requirements for grants
made in Federal Fiscal Year 1982 and
thereafter.)

(11) Subparts A, C, J, K and O apply to
all of the above programs administered
by HUD but do not apply to the State's
Program (Subpart I) except to the extent
expressly referred to in, for example, in
§ 570.4. (Until Subparts J, K and O are
amended to more completely reflect the
Housing and Community Development
Amendments of 1981, they should be
read as applying to the Entitlement
grants program in a manner which
recognizes the claims of the
applicant/requirements for grants
made in Federal Fiscal Year 1982 and
thereafter.)

(12) Subparts A, C, J, K and O apply to
all of the above programs administered
by HUD but do not apply to the State's
Program (Subpart I) except to the extent
expressly referred to in, for example, in
§ 570.4. (Until Subparts J, K and O are
amended to more completely reflect the
Housing and Community Development
Amendments of 1981, they should be
read as applying to the Entitlement
grants program in a manner which
recognizes the claims of the
applicant/requirements for grants
made in Federal Fiscal Year 1982 and
thereafter.)

(13) Subparts A, C, J, K and O apply to
all of the above programs administered
by HUD but do not apply to the State's
Program (Subpart I) except to the extent
expressly referred to in, for example, in
§ 570.4. (Until Subparts J, K and O are
amended to more completely reflect the
Housing and Community Development
Amendments of 1981, they should be
read as applying to the Entitlement
grants program in a manner which
recognizes the claims of the
applicant/requirements for grants
made in Federal Fiscal Year 1982 and
thereafter.)

(14) Subparts A, C, J, K and O apply to
all of the above programs administered
by HUD but do not apply to the State's
Program (Subpart I) except to the extent
expressly referred to in, for example, in
§ 570.4. (Until Subparts J, K and O are
amended to more completely reflect the
Housing and Community Development
Amendments of 1981, they should be
read as applying to the Entitlement
grants program in a manner which
recognizes the claims of the
applicant/requirements for grants
made in Federal Fiscal Year 1982 and
thereafter.)

(15) Subparts A, C, J, K and O apply to
all of the above programs administered
by HUD but do not apply to the State's
Program (Subpart I) except to the extent
expressly referred to in, for example, in
§ 570.4. (Until Subparts J, K and O are
amended to more completely reflect the
Housing and Community Development
Amendments of 1981, they should be
read as applying to the Entitlement
grants program in a manner which
recognizes the claims of the
applicant/requirements for grants
made in Federal Fiscal Year 1982 and
thereafter.)

(16) Subparts A, C, J, K and O apply to
all of the above programs administered
by HUD but do not apply to the State's
Program (Subpart I) except to the extent
expressly referred to in, for example, in
§ 570.4. (Until Subparts J, K and O are
amended to more completely reflect the
Housing and Community Development
Amendments of 1981, they should be
read as applying to the Entitlement
grants program in a manner which
recognizes the claims of the
applicant/requirements for grants
made in Federal Fiscal Year 1982 and
thereafter.)

(17) Subparts A, C, J, K and O apply to
all of the above programs administered
by HUD but do not apply to the State's
Program (Subpart I) except to the extent
expressly referred to in, for example, in
§ 570.4. (Until Subparts J, K and O are
amended to more completely reflect the
Housing and Community Development
Amendments of 1981, they should be
read as applying to the Entitlement
grants program in a manner which
recognizes the claims of the
applicant/requirements for grants
made in Federal Fiscal Year 1982 and
thereafter.)

(18) Subparts A, C, J, K and O apply to
all of the above programs administered
by HUD but do not apply to the State's
Program (Subpart I) except to the extent
expressly referred to in, for example, in
§ 570.4. (Until Subparts J, K and O are
amended to more completely reflect the
Housing and Community Development
Amendments of 1981, they should be
read as applying to the Entitlement
grants program in a manner which
recognizes the claims of the
applicant/requirements for grants
made in Federal Fiscal Year 1982 and
thereafter.)

(19) Subparts A, C, J, K and O apply to
all of the above programs administered
by HUD but do not apply to the State's
Program (Subpart I) except to the extent
expressly referred to in, for example, in
§ 570.4. (Until Subparts J, K and O are
amended to more completely reflect the
Housing and Community Development
Amendments of 1981, they should be
read as applying to the Entitlement
grants program in a manner which
recognizes the claims of the
applicant/requirements for grants
made in Federal Fiscal Year 1982 and
thereafter.)

(20) Subparts A, C, J, K and O apply to
all of the above programs administered
by HUD but do not apply to the State's
Program (Subpart I) except to the extent
expressly referred to in, for example, in
§ 570.4. (Until Subparts J, K and O are
amended to more completely reflect the
Housing and Community Development
Amendments of 1981, they should be
read as applying to the Entitlement
grants program in a manner which
recognizes the claims of the
applicant/requirements for grants
made in Federal Fiscal Year 1982 and
thereafter.)

(21) Subparts A, C, J, K and O apply to
all of the above programs administered
by HUD but do not apply to the State's
Program (Subpart I) except to the extent
expressly referred to in, for example, in
§ 570.4. (Until Subparts J, K and O are
amended to more completely reflect the
Housing and Community Development
Amendments of 1981, they should be
read as applying to the Entitlement
grants program in a manner which
recognizes the claims of the
applicant/requirements for grants
made in Federal Fiscal Year 1982 and
thereafter.)

43558 Federal Register / Vol. 48, No. 108 / Friday, September 23, 1983 / Rules and Regulations

to undertake essential community
development and housing assistance
activities and which do not affect to their
population excluded or (ii) with
which it has entered into cooperation
agreement, to undertake or to assist in
the undertaking of essential community
development and housing activities, or
(3) has population in excess of one
hundred thousand and a population density
of five thousand persons per square
mile, and contains within its boundaries
no incorporated places as defined by the
United States Bureau of the Census. Any
urban county which qualified as an
urban county in Fiscal Year 1981, the
population of the county (other than the
population of metropolitan cities
therein), and the population of which for
Fiscal Year 1982 falls below the amount
required by clause (1) of the preceding
sentence by reason of the 1980
decennial census shall be considered as
meeting the population requirements of
such clause for Fiscal Year 1983 and
shall not be subject to the provisions of
§ 570.201 in that fiscal year.

(b) "Act" means Title I of the Housing
and Community Development Act of
1974, as amended (42 U.S.C. 5301 et
seq.).

(c) "Age of housing" means the
number of existing year-round housing
units constructed in 1939 or earlier,
based on data compiled by the United
States Bureau of the Census referable to
the same point or period of time,
available from the latest decennial
census; except that the 1980 census data
will not be used until Fiscal Year 1984.

(d) "Applicant" means a State, unit of
general local government, or Indian tribe
which makes application pursuant to the
provisions of Subparts E, F, G or M.

(e) "Chief Executive Officer" of a
State or unit of local government means
the elected official, or the legally
authorized representative, who has the primary
responsibility for the conduct of that
entity's governmental affairs. Examples
of the "chief executive officer" of a unit
of local government are: the elected
mayor of a municipality; the elected
county executive of a county; the
chairman of a county commission or
board of county commissioners; the
county executive; the official designated
pursuant to law by the governing body
of the unit of general local government;
or the chief executive officer of a
State or unit of local government.

(f) "City" means, for purposes of
Entitlement grant program (Subpart D),
any unit of general local government
which is classified as a municipality by
the United States Bureau of the Census
(or (2) any unit of general local
government which is a town or township
and which, in the determination of the
Secretary, (i) possesses powers and
performs functions comparable to those
associated with municipalities; (ii) is
closely related (except that the Secretary
may reduce or waive the requirement
on a case by case basis for the purposes
of the Action Grant program); and (iii)
contains within its boundaries no
incorporated places as defined by the
United States Bureau of the Census,
which have not entered into cooperation
agreements with such town or township
for a period covering at least 2 years to
undertake or to assist in the undertaking
of essential community development

processing by the Census Bureau as of
such date, except that any such
boundary change or annexation which
results in the population of a unit of
general local government reaching or
exceeding 50,000 shall not be subject to
this paragraph for the purpose of the
changes are accepted for use by the
ORS, and;

(g) With respect to the status of
"Metropolitan Statistical Area" and
central cities, as officially designated by
the Office of Management and Budget as
of such date.

(h) In determining whether a county
qualifies as an urban county, and in
computing Entitlement amounts for
urban counties, the demographic values
of population, poverty, housing
overcrowding, and age of housing of any
Indian tribes located within the county
shall be excluded. In allocating amounts
to States for use in nonentitlement
areas, the demographic values of
population, poverty, housing
overcrowding, and age of housing of all
Indian tribes located in nonentitled
areas shall be excluded. It is recognized
that all such data from Indian tribes are
not generally available from the United
States Bureau of the Census and that
missing portions of data will have to be
estimated in accomplishing any such
estimates the Secretary may use such
other related information available from
reputable sources as may seem
appropriate, regardless of the date's
point or period of time and shall use the
best judgment possible in adjusting such
data to reflect the same point or period
of time as the overall data from which
such deduction shall not create an
imbalance with those overall data.

(i) Amounts remaining after closeout
of a grant which are required to be
returned to HUD under the provisions of
§ 570.212, Grant closeouts, shall be
considered as funds available for
reallocation.

(j) The definitions in § 570.3 shall
govern in applying the policies and
procedures described in sections 106
and 107 of the Act, as supplemented in
§ 570.312.

(k) In determining eligibility for
entitlement and in allocating funds
under section 106 of the Act for any
Fiscal Year, the Department will
recognize corporate status and
geographical boundaries and the status
of metropolitan areas and central cities
effective as of July 1, 1980, and will
apply the requirement and where application
of the requirement would adversely
affect the purposes of the Act.

(l) With respect to corporate status,
as certified by the applicable State and
available for processing by the Census
Bureau as of such date.

(m) With respect to boundary changes
or annexations, as accepted for use by
the Office of Revenue Sharing (ORS) for
the same fiscal year and available for

processing by the Census Bureau as of
such date, except that any such
boundary change or annexation which
results in the population of a unit of
general local government reaching or
exceeding 50,000 shall not be subject to
this paragraph for the purpose of the
changes are accepted for use by the
ORS, and;

(n) With respect to the status of
"Metropolitan Statistical Area" and
central cities, as officially designated by
the Office of Management and Budget as
of such date.

(o) In determining whether a county
qualifies as an urban county, and in
computing Entitlement amounts for
urban counties, the demographic values
of population, poverty, housing
overcrowding, and age of housing of any
Indian tribes located within the county
shall be excluded. In allocating amounts
to States for use in nonentitlement
areas, the demographic values of
population, poverty, housing
overcrowding, and age of housing of all
Indian tribes located in nonentitled
areas shall be excluded. It is recognized
that all such data from Indian tribes are
not generally available from the United
States Bureau of the Census and that
missing portions of data will have to be
estimated in accomplishing any such
estimates the Secretary may use such
other related information available from
reputable sources as may seem
appropriate, regardless of the date's
point or period of time and shall use the
best judgment possible in adjusting such
data to reflect the same point or period
of time as the overall data from which
such deduction shall not create an
imbalance with those overall data.

(p) Amounts remaining after closeout
of a grant which are required to be
returned to HUD under the provisions of
§ 570.212, Grant closeouts, shall be
considered as funds available for
reallocation.

(q) The definitions in § 570.3 shall
govern in applying the policies and
procedures described in sections 106
and 107 of the Act, as supplemented in
§ 570.312.

(r) In determining eligibility for
entitlement and in allocating funds
under section 106 of the Act for any
Fiscal Year, the Department will
recognize corporate status and
geographical boundaries and the status
of metropolitan areas and central cities
effective as of July 1, 1980, and will
apply the requirement and where application
of the requirement would adversely
affect the purposes of the Act.

(s) With respect to corporate status,
as certified by the applicable State and
available for processing by the Census
Bureau as of such date.

(t) With respect to boundary changes
or annexations, as accepted for use by
the Office of Revenue Sharing (ORS) for
the same fiscal year and available for

processing by the Census Bureau as of
such date, except that any such
boundary change or annexation which
results in the population of a unit of
general local government reaching or
exceeding 50,000 shall not be subject to
this paragraph for the purpose of the
changes are accepted for use by the
ORS, and;

(u) With respect to the status of
"Metropolitan Statistical Area" and
central cities, as officially designated by
the Office of Management and Budget as
of such date.

(v) In determining whether a county
qualifies as an urban county, and in
computing Entitlement amounts for
urban counties, the demographic values
of population, poverty, housing
overcrowding, and age of housing of any
Indian tribes located within the county
shall be excluded. In allocating amounts
to States for use in nonentitlement
areas, the demographic values of
population, poverty, housing
overcrowding, and age of housing of all
Indian tribes located in nonentitled
areas shall be excluded. It is recognized
that all such data from Indian tribes are
not generally available from the United
States Bureau of the Census and that
missing portions of data will have to be
estimated in accomplishing any such
estimates the Secretary may use such
other related information available from
reputable sources as may seem
appropriate, regardless of the date's
point or period of time and shall use the
best judgment possible in adjusting such
data to reflect the same point or period
of time as the overall data from which
such deduction shall not create an
imbalance with those overall data.

(w) Amounts remaining after closeout
of a grant which are required to be
returned to HUD under the provisions of
§ 570.212, Grant closeouts, shall be
considered as funds available for
reallocation.

(x) The definitions in § 570.3 shall
govern in applying the policies and
procedures described in sections 106
and 107 of the Act, as supplemented in
§ 570.312.

(y) In determining eligibility for
entitlement and in allocating funds
under section 106 of the Act for any
Fiscal Year, the Department will
recognize corporate status and
geographical boundaries and the status
of metropolitan areas and central cities
effective as of July 1, 1980, and will
apply the requirement and where application
of the requirement would adversely
affect the purposes of the Act.

(z) With respect to corporate status,
as certified by the applicable State and
available for processing by the Census
Bureau as of such date.

(aa) With respect to boundary changes
or annexations, as accepted for use by
the Office of Revenue Sharing (ORS) for
the same fiscal year and available for

processing by the Census Bureau as of
such date, except that any such
boundary change or annexation which
results in the population of a unit of
general local government reaching or
exceeding 50,000 shall not be subject to
this paragraph for the purpose of the
changes are accepted for use by the
ORS, and;

(ab) With respect to the status of
"Metropolitan Statistical Area" and
central cities, as officially designated by
the Office of Management and Budget as
of such date.

Subpart C—Eligible Activities

§ 570.200 General policies

(a) Determination of eligibility. An
activity may be financed in whole or in
part with Community Development
Block Grant (CDBG) funds only if all of
the following requirements are met:

(1) Compliance with section 106 of the
Act. Each activity must meet the
eligibility requirements of section 106 of
the Act as further defined in this
Subpart.

(2) Compliance with primary
activities. The Act establishes as its
primary objective the development of
viable urban communities, including
decent housing and a suitable living
environment, and expanding economic
opportunity, principally for persons of
low and moderate income. For grant
recipients under the Entitlement and
HUD-administered Small Cities
programs, this overall objective is
achieved through a program where the
primary objective of the grant is to
carry out one of the broad national
objectives of benefit to low and
moderate income families or aid in the
prevention or elimination of slums or
blight; the projected use of funds may
be estimated in accomplishing any such
estimates the Secretary may use such
other related information available from
reputable sources as may seem
appropriate, regardless of the date's
point or period of time and shall use the
best judgment possible in adjusting such
data to reflect the same point or period
of time as the overall data from which
such deduction shall not create an
imbalance with those overall data.

(3) "Urban Development Action
Grant" (UDAG) means a grant made by
the Secretary pursuant to section 119 of
the Act and Subpart G of this Part.

(4) Allocation of funds.

(a) The determination of eligibility of
units of general local government to
receive entitlement grants, the
entitlement amounts, the allocation of
entitlement funds to States for use in
nonentitlement areas, the reallocation of
funds, and the allocation of a county's
appropriated funds for discretionary
grants under the Act shall be governed
by the policies and procedures described
in sections 106 and 107 of the Act, as
supplemented in § 570.312.

(b) The definitions in § 570.3 shall
govern in applying the policies and
procedures described in sections 106
and 107 of the Act, as supplemented in
§ 570.312.

(c) In determining eligibility for
entitlement and in allocating funds
under section 106 of the Act for any
Fiscal Year, the Department will
recognize corporate status and
geographical boundaries and the status
of metropolitan areas and central cities
effective as of July 1, 1980, and will
apply the requirement and where application
of the requirement would adversely

No. 105 / Friday, September 23, 1983 / Rules and Regulations

APPENDIX C
BUDGET

Seventeen thousand five hundred dollars for installation of two handicapped
amps, renovating kitchen and bathroom, widening hall and bedroom doorways, re-
moving carpet padding and installing an automatic sprinkler system.....\$17,500

February 3, 198
Case No. 86-277-3PH
GENE FULFORD, et al

FEB 4 1987

☐ Adult
☐ Rec'd
☐ Ret.
☐ Exp.
☐ Child

ZONING DEPARTMENT

By

Mr. Arnold Jablon
Zoning Commissioner
Baltimore County Office
of Planning and Zoning
Courthouse
Towson, Maryland 21204

Dear Mr. Jablon:

Pursuant to your request at the close of the Hearing held January 20, 1986, enclosed is a copy of the Community Development Block Grant contract concerning 5904 Pt. Pleasant Avenue for your files.

Please feel free to contact me at 668-4932 if you require additional information.

Sincerely,

Lisa Warren Torgerson
Lisa Warren Torgerson
Director, Adult Services Division

LWT: jh

cc: Dick Gelfman, Esq.

8641 Loch Raven Blvd. / Suite 2E / Towson, Maryland 21204 / (301) 668-4921

JAN 27 AM



12:00

RECORDS DEPARTMENT

Ref: PETITION 86-274 SP H
Eugene Fullano, Petitioner
5904 Point Pleasant Road
Baltimore, MD 21206

Hearing: January 20, 1986

86-274-SPT
GENE PULLANO, JR.

Baltimore County Zoning Office
111 West Chesapeake Avenue
Towson, MD 21204

Gentlemen:

We, the undersigned, wish to voice our opposition to a zoning reclassification to allow a community group home in the midst of residential properties. All of the homes situated on Point Pleasant Road are maintained by proud owners who presently worry that a group home would detract from the area.

It is our primary purpose to say NO to any changes, or special allowances, from the Zoning Office, at this time.

NAME	ADDRESS	
Pg Robertson	6005 Point Pleasant	21206
John Chelton	6005 Point Pleasant Pl.	21206
Chelton	6007 Pt. Pleasant Pl	21206
Wally Wilton	330 St. Patrick Rd	21206
Denny Lickell	330 St. Patrick	21206
Theresa A. Rowald	6001 POINT PLEASANT	21206
Catherine Rittig	6001 Point Pleasant Pl	21210
Myra H. Gjund	321 St. Patrick Rd.	21206

We the undersigned are of the opinion that the property located at 5934 Pine Pleasant Road needs a Special Easement for a Community Care Center and should not be allowed as a matter of right.

Leroy W. Fisher 5915 Baybreak Terrace 21206
 Frank Plough 5906 Point Pleasant Rd 21206
 Bernadette Boyce 5906 Pt Pleasant Rd 21206
 Monique & Steven 6000 PT Pleasant Rd
 John H. Houn 6006 Point Pleasant Rd. 21206
 Eric Bettelhoff 6001 PT. PLEASANT RD. 21206
 James Hill 6000 Pt Pleasant Rd 21206
 Roger Spitzer 5903 Baybreak Inn 21206
 Edgar Roberts 5903 Baybreak Ave 21206
 William Alworth 6001 Pt Pleasant Rd
 Gene D. Hall 6000 Pt. Pleasant Rd
 John C. Robertson 6005 Point Pleasant Rd. 21206
 William J. Siddle 5907 Baybreak Terrace

PETITIONER'S
EXHIBIT

Chancery No. 7175 (Circuit Court for Caroline County, September 11, 1978), directly on point, is persuasive:

Article 3 of the Caroline County Zoning Ordinance defines "family" as "one or more persons occupying a single housekeeping unit and using common cooking facilities, provided that unless all members are related by blood or marriage, no such family shall contain over four (4) persons"....

With respect to the definition of the word "family" in the zoning ordinance, in my opinion, when dealing with the definition we are concerned with the characteristics of a group of people. A group of people no larger than a normal family, living in a house that is a single family dwelling, eating together and having other characteristics of a family, meets the requirement of being considered a family. Zoning regulations cannot deal with the relationship of those persons who compose such a family group... If a group of persons are living together as a family unit—attempting to duplicate a normal family—with a couple, or even a single person or several people working together as a staff, acting as surrogate parents, and the house in which they live has one kitchen, one dining room in which the group eats as a family unit, and one or more bathrooms for the use of all members of the group, there exists a "family". I do not believe a zoning ordinance can by definition characterize the relationship so as to hold the group is not a family. I do not extend my holding to a fraternity house, dormitory, commune or small institution. But wherever it can be shown in situations similar to that now being considered by the Court that there is a true family unit, whether related or not, this satisfies the definition of a family. To hold otherwise would be unconstitutional under due process principles.

Notwithstanding the requirement for special exceptions for community care facilities and for rooming/boarding houses, it must be emphasized that if a living unit meets the definition of "family", it is not a community care facility and it is not a rooming or boarding house. To hold otherwise would be inconsistent.

The terms "boarding house" and "rooming house" for which a special exception are needed do not include:

1. single housekeeping units classified as a family;
2. programs or facilities for children;

- 8 -

3. units where meals are provided but that are not the primary residence of the owner;
4. adult foster care homes supervised by the Department of Social Services; and
5. apartment buildings, hotels, or motels.

The term "boarding house" can include a care home which meets the other criteria for qualification as a boarding house. The term "care home", however, does not include:

1. facilities providing only domiciliary care to fewer than four individuals and
2. adult residential homes certified by the Department of Human Resources.

The Petitioners argued that the UCP proposed use is a rooming or boarding house. The overriding facts are that the home here is not operated for commercial purposes, the residents do not pay a daily fee for lodging and meals, and residence at the home is permanent. See In Re: Miller, 482 A.2d 688 (Pa., 1984). Further, supervision and assistance are provided and a bona fide housekeeping unit would exist. Such factors are characteristic of a single housekeeping unit, thereby distinguishing a "family" from a rooming or boarding house. See McGinnis Appeal, 57 A.2d 108 (1982), cert. denied, 103 Sup. Ct. 2121 (1983). If the living unit satisfies the definition of "family", then it cannot be a rooming or boarding house.

As for the Petitioners' contention that the proposed use is a community care facility, it needs to be pointed out that the BCZR requires licensure by either the Department of Health and Mental Hygiene or the Department of Social Services, neither of which has licensed this facility. The proposed use cannot therefore be a community care center. Further, a facility does not fall within the definition of a community care center if its use satisfies the definition of "family". Living arrangements meeting the definition of

- 9 -

"family" are permitted as a matter of right in all residential zones. Living arrangements for handicapped people that operate as a single-housekeeping unit, as defined by the aforesaid characteristics, would constitute a "family" for zoning purposes and are unaffected by the community care center provisions. Commonly of small size and always possessing a family-like atmosphere, most of the group homes and ALU's would satisfy the definition of "family" and are consequently not community care centers.

In Howard County Assoc. for Retarded Citizens, Inc. v. Howard County Bd. of Appeals, Case Nos. 10609 and 10633, Circuit Court for Howard County, December 15, 1976, the Court was asked to prohibit a group home from being located in a residential zone as a matter of right. The Howard County zoning ordinance defined "family" as "[a] person living alone, or 2 or more persons living together as a housekeeping unit, with separate identity from other persons or groups in the same structure, having cooking facilities as a part of the area designated for his or their use." In a Memorandum Opinion, the Court examined a number of cases decided by courts in other states and decided that the group home proposed in Howard County satisfied the Howard County Zoning Regulations' definition of "family", and therefore, it was permitted as a matter of right.

This case involved the Howard County Association for Retarded Children (Association), a non-profit corporation, which proposed to purchase a single-family, five bedroom dwelling in a residential area. The dwelling had the home of a husband and wife and their seven children and the husband's father. The Association intended to use the dwelling as a group home for no more than eight "patients", all retarded and over the age of 18, and two supervisors. Each was required to contribute money to help defray the costs of operation. There was no particular room or space assigned to anyone,

- 10 -

and the housekeeping facilities, such as the kitchen, were for their common use.

The use of the dwelling in controversy here will be substantially as before although the purpose is different. Zoning, however, is concerned with use and not with ownership nor with the purposes of the owners or occupants. Mayor and City Council v. Poe, 224 Md. 428 (1960). This Court concludes that the use in question is permitted as a matter of right under the definition of "family" in the Howard County Zoning Regulations...

It is therefore clear that the proposed use by UCP is permitted as a matter of right. To describe otherwise would create a constitutional deprivation of due process under Boraas, supra. This conclusion makes it unnecessary to consider the other issues raised, i.e., preemption or implied preemption by State law which prohibits local jurisdictions from restricting or regulating those programs established by the State. See Article XI-A, Section 3, Md. Const.; 63 Op. Atty. Gen. 377 (July 21, 1978) (which examined the authority of county governments to restrict group residential facilities); and Sections 7-416, 7-2A-01, and 10-518, Health-Gen. Art., Md. Code.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief prayed for should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 7th February, 1986, that the group home proposed by UCP is permitted as a matter of right in a residential zone.

Zoning Commissioner of Baltimore County

AJ/srl

cc: S. Eric DiNenna, Esquire
Richard D. Gelfman, Esquire
People's Counsel

- 11 -

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described as follows: 5904 Point Pleasant Road in the 6th Councilmatic District of Baltimore County, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a community care center/group home in a DR 5.5 R zone located at 5904 Point Pleasant Road in the 6th Councilmatic District of Baltimore County, owned by Dorothy Kuchik.

The acquisition of a Special Exception pursuant to Sec. 1801.1 C.6A, and in conflict with Sec. 1801.1B of B.C.Z.R. Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.:

Legal Owner(s):

(Type or Print Name)

Signature

Address

City and State

5909 Daybreak Terrace

Address

Baltimore, Maryland 21206

City and State

S. Eric DiNenna

406 W. Pennsylvania Ave. 296-6820

Address

Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 12th day of December, 1985, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 20th day of January, 1986, at 10:15 o'clock.

Zoning Commissioner of Baltimore County.

(over)

IN RE: PETITION FOR SPECIAL HEARING 5904 Point Pleasant Road 14th Election District GENE FULLANO, ET AL

BEFORE THE COUNTY BOARD OF APPEALS Case No.: 86-274-SPH

ORDER OF DISMISSAL

Upon the foregoing Motion to Dismiss, it is ORDERED this 14th day of October, 1986, by the County Board of Appeals of Baltimore County, that the Petition for Special Hearing is hereby dismissed without prejudice.

William T. Hackett
William T. Hackett, Chairman

Lawrence E. Schmidt

Patricia Phipps

IN RE: PETITION FOR SPECIAL HEARING 5904 Point Pleasant Road 14th Election District GENE FULLANO, ET AL

BEFORE THE COUNTY BOARD OF APPEALS Case No.: 86-274-SPH

MOTION TO DISMISS

MR. CHAIRMAN:

Now Comes Edward Trovato and Frank Raspa, by S. Eric DiNenna and S. Eric DiNenna, P.A., and moves that the Petition for Special Hearing filed herein, by dismissed without prejudice; the parties hereto have reached an agreement and the subject property is no longer the subject of any controversy.

S. ERIC DINENNA
S. ERIC DINENNA, P.A.
406 West Pennsylvania Avenue
Towson, Maryland 21204
(301) 296-6820

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 3rd day of October, 1986, a copy of the foregoing Motion to Dismiss was mailed, postage prepaid, to Gelfman, Gelfman & Lyon, P.A., Attorneys at Law, and Richard D. Gelfman, Esquire, Oakland Ridge Professional Building, 9123 Old Annapolis Road (Route 108) Columbia, Maryland 21045; Phillis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 223, Court House, Towson, Maryland 21204.

S. ERIC DINENNA



County Board of Appeals of Baltimore County

Room 200 Court House

Towson, Maryland 21204

(301) 494-3180

October 14, 1986

S. Eric DiNenna, Esq.
406 W. Pennsylvania Ave.
Towson, Md. 21204

Dear Mr. DiNenna:

Re: Case No. 86-274-SPH
Gene Fullano, et al

Enclosed herewith is a copy of the Order of Dismissal passed today by the County Board of Appeals in the above entitled matter.

Very truly yours,

June Holmen, Secretary

Encl.

cc: Mr. Gene Fullano
Mr. Edward Trovato
Richard D. Gelfman, Esq.
Mr. Frank Raspa
Phyllis C. Friedman
Malcolm F. Spicer, Jr., Esq.
James F. Garrity, Esq.
Norman E. Gerber
James Hoswell
Arnold Jablon
Jean Jung
James E. Dyer

Case No. 86-274-SPH
Item No. 137
Date: March 7, 1986

5904 Point Pleasant Road
14th Election District
Gene Fullano, et al, Petitioners

- ☒ 1. Copy of Petition
☐ 2. Copy of Description of Property
☒ 3. Copy of Certificate of Posting (1 Sign)
☒ 4. Copy of Certificates of Publication
☒ 5. Copy of Zoning Advisory Committee Comments
☒ 6. Copy of Comments from the Director of Planning
☐ 7. Planning Board Comments and Accompanying Map
☒ 8. Copy of Order to Enter Appearance
☒ 9. Copy of Order - Zoning/Deputy Zoning Commissioner
☒ 10. Copy of Plat of Property
☐ 11. 200' Scale Location Plan
☐ 12. 1000' Scale Location Plan
☐ 13. Memorandum in Support of Petition
☐ 14. Letter(s) from Protestant(s)
☐ 15. Letter(s) from Petitioner(s)
☒ 16. Protestants' Exhibits 1 to Community Development Block Grant Contract
☒ 17. Petitioners' Exhibits 1 to Neighborhood Petition.
☒ 18. Letter of Appeal
☒ 19. 4 Subpoena's
☒ 20. Answer to the Petition for Special Hearing
- Mr. Gene Fullano Petitioner
6000 Point Pleasant Road
Baltimore, MD 21206
- Mr. Edward Travato Petitioner
5909 Daybreak Terrace
Baltimore, MD 21206
- S. Eric DiNenna, Esquire Attorney for Petitioners
406 W. Pennsylvania Avenue
Towson, MD 21204
- Richard D. Gelfman, Esquire Attorney for Protestant
Oakland Ridge Professional Bldg.
9123 Old Annapolis Rd. (Rt. 108)
Columbia, MD 21045
- Phyllis C. Friedman, Esquire People's Counsel
- REQUEST NOTIFICATION: Norman E. Gerber, James Hoswell, Arnold Jablon,
Jean M. H. Jung, James E. Dyer



County Board of Appeals of Baltimore County
Room 200 Court House (Hearing Room #218)
Towson, Maryland 21204
(301) 494-3180

NOTICE OF POSTPONEMENT and REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 86-274-SPH GENE FULLANO, ET AL
5904 Point Pleasant Road
14th District
SPH-A community care center/group home in a DR 5.5 zone without benefit of the acquisition of a special exception
2/7/86 - Z.C.'s Order - SPH Denied
The above case, set for hearing on Wednesday, July 30, 1986, at 10 a.m., HAS BEEN POSTPONED by the Board at the request of the attorney for Protestant, United Cerebral Palsy, and
REASSIGNED FOR: THURSDAY, OCTOBER 2, 1986, at 10 a.m.
cc: Mr. Gene Fullano Petitioner
Mr. Edward Travato Petitioner-Appellant
S. Eric DiNenna, Esq. Counsel for Petitioners
Richard D. Gelfman, Esq. Counsel for Protestant-United Cerebral Palsy
Frank Raspa Appellant
Phyllis C. Friedman People's Counsel
Norman Gerber
James Hoswell
Arnold Jablon
Jean Jung
James Dyer

June Holmen, Secretary

4/16/86 - Notified of appeal hearing scheduled for WEDNESDAY, JULY 30, 1986 at 10 a.m.

Mr. Gene Fullano
Mr. Edward Travato
S. Eric DiNenna, Esq.
Richard D. Gelfman, Esq.
Frank Raspa
Phyllis C. Friedman

7/24/86 - Above notified of postponement and rescheduling of case for Oct. 2, '86, at 10 a.m.

Case No. 86-274-SPH

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this 26th day of November, 1985.

Petitioner Gene Fullano, et al
Petitioner's S. Eric DiNenna, Esquire
Attorney

ARNOLD JABLON
Zoning Commissioner

Received by: James E. Dyer, Jr.
Chairman, Zoning Plans
Advisory Committee



County Board of Appeals of Baltimore County
Room 200 Court House (Hearing Room #218)
Towson, Maryland 21204
(301) 494-3180
April 16, 1986

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 86-274-SPH GENE FULLANO, ET AL
5904 Point Pleasant Road
14th District
SPH-A community care center/group home in a DR 5.5 zone without benefit of the acquisition of a special exception
2/7/86 - Z.C.'s Order-SPH Denied
ASSIGNED FOR: WEDNESDAY, JULY 30, 1986, at 10 a.m.

cc: Mr. Gene Fullano Petitioner
Mr. Edward Travato Petitioner-Appellant
S. Eric DiNenna, Esq. Counsel for Petitioners
Richard D. Gelfman, Esq. Counsel for Protestant-United Cerebral Palsy
Frank Raspa Appellant
Phyllis C. Friedman People's Counsel
Norman Gerber
James Hoswell
Arnold Jablon
Jean Jung
James Dyer

June Holmen, Secretary

IN RE: PETITION FOR SPECIAL HEARING
5904 Point Pleasant Road - 14th Election District
BEFORE THE BOARD OF APPEALS
OF BALTIMORE COUNTY
CASE NO. 86-274-SPH

APPEARANCE

Please enter the appearance of Malcolm F. Spicer, Jr., County Attorney and James F. Garrity, Assistant County Attorney, on behalf of Baltimore County, Maryland in the above captioned case which is scheduled for a hearing at 10:00 a.m. on July 30, 1986.

Malcolm F. Spicer, Jr.
County Attorney
James F. Garrity
Assistant County Attorney

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 25th day of April, 1986, a copy of the foregoing appearance was mailed, postage prepaid, to S. Eric DiNenna, DiNenna, Mann & Breschi, 406 W. Pennsylvania Avenue, Towson, Maryland 21204, and Gelfman, Gelfman & Lyon, P.A., Attorneys at Law, and Richard D. Gelfman, Esquire, Oakland Ridge Professional Building 9123 Old Annapolis Road, (Route 108) Columbia, Maryland 21045, Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 223, Courthouse, Towson, Maryland 21204.

James F. Garrity
Assistant County Attorney
Courthouse Mezzanine
Towson, Maryland 21204

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon
TO: Zoning Commissioner Date: January 17, 1986
Norman E. Gerber, AICP, Director
FROM: Office of Planning and Zoning
SUBJECT: Zoning Petition No. 86-274-SPH

In view of the subject of this petition, this office offers no comment.

NEG:JGH:sim

Norman E. Gerber, AICP
Director

Case No. 86-274-SPH Gene Fullano, et al

The Board is in receipt of a letter of July 22, 1986, from Dick Gelfman, requesting a postponement of the hearing on Case No. 86-274-SPH, scheduled for July 30, 1986, at 10 a.m.

The Board's rules require that all requests for postponements be received 15 days prior to the scheduled hearing date unless extreme circumstances are noted. No such circumstances are claimed in the July 22nd communication. The Board will, however, note that agreement on granting a postponement has apparently been reached among all parties. Therefore the Board will grant the request for a postponement and will reschedule the hearing for 10 a.m. on Oct. 2, 1986.

Open Hearing
10/2/86
pending dismissal
10/2/86

Gelfman, Gelfman & Lyon, P.A.
Attorneys at Law
Oakland Ridge Professional Building
9123 Old Annapolis Road (Rt. 108)
Columbia, Maryland 21045

801 000-1004

July 22, 1986

County Board of Appeals of Baltimore County
Room 200
Court House
Towson, Maryland 21204

Hearing - July 30, 1986 at 10:00 a.m.
Re: Case No. 86-274-SPH
Petition for Special Hearing
5904 Point Pleasant Road -
14th Election District

Gentlemen:

Please be advised that United Cerebral Palsy of Central Maryland, Inc. would like to postpone the above-captioned hearing. Although the appeal was originally noted by opposing counsel, I have discussed this matter with him and he has no objection to a postponement.

Before setting this matter back in for a hearing, I would appreciate it if you would contact all counsel in this case with potential dates so that our schedules can be coordinated.

Sincerely,

GELFMAN & GELFMAN, P.A.

Dick Gelfman
Attorney for UCP

DG/ps
cc: S. Eric DiNenna, Esquire

ps sent
Oct. 2 per H.

RECEIVED
COUNTY BOARD OF APPEALS
JUL 24 9 52

DINENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DINENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
ROBERT A. BRESCHI

406 WEST PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204
(301) 276-6820

October 2, 1986

Chairman
County Board of Appeals
of Baltimore County
Room 200
Court House
Towson, Maryland 21204

RE: Case No.: 86-274-SPH
5904 Point Pleasant Road

Dear Mr. Chairman:

Enclosed herewith please find a Motion to Dismiss and accompanying order of Dismissal concerning the above-captioned matter.

Thank you for your cooperation in this matter. Upon execution of the Order of Dismissal, please forward a copy to all parties.

Very truly yours,

S. ERIC DINENNA

SED:kar

Enclosures

cc: Richard D. Gelfman, Esquire
Mr. Edward Trovato
Ms. Phillis Friedman

DINENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DINENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
ROBERT A. BRESCHI

406 WEST PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204
(301) 276-6820

September 23, 1985

Zoning Commissioner's Office
Office of Planning and
Zoning
County Office Building
Towson, Maryland 21204

RE: 5904 Point Pleasant Road
Special Hearing

Dear Mr. Commissioner:

Enclosed herewith please find the original and three copies of the Petition for Special Hearing, along with a check in the amount of \$35.00 representing the filing costs. It is my understanding that a plat and description is not necessary inasmuch as this is an interpretation request special hearing.

Very truly yours,

S. ERIC DINENNA

SED/neb

Enc.

cc: Mr. Gene Fullano
cc: Mr. Edward Trovato
cc: David M. Lyon, Esquire (with enclosure)

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204-2586
494-4500

PAUL H. REINGKE
CHIEF

November 20, 1985

Mr. Arnold Jablon
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Gene Fullano, et al

Location: 5904 Point Pleasant Road

Item No.: 137 Zoning Agenda: Meeting of October 22, 1985

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *[Signature]* Noted and Approved: *[Signature]*
Planning Group
Special Inspection Division

/mb

86-274-

1120

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

December 11, 1985

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

S. Eric Dinenna, Esquire
406 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Item No. 137 - Case No. 86-274-SPH
Petitioners - Gene Fullano, et al
Special Hearing Petition

Dear Mr. Dinenna:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above-referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

[Signature]
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:nr

Enclosures

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
494-3211

NORMAN E. GENDER
DIRECTOR

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

JANUARY 10, 1986

Re: Zoning Advisory Meeting of October 22, 1985
Item # 137
Property Owner: GENE FULLANO, et al
Location: 5904 POINT PLEASANT ROAD

Dear Mr. Jablon:

The Division of Current Planning and Development has reviewed the subject petition and offers the following comments. The items checked below are applicable.

- (X) There are no site planning factors requiring comment.
- () A County Review Group Meeting is required.
- () A County Review Group Meeting was held and the minutes will be forwarded by the Bureau of Public Services.
- () This site is part of a larger tract; therefore it is defined as a subdivision. The plan must show the entire tract.
- () A record plat will be required and must be recorded prior to issuance of a building permit.
- () The access is not satisfactory.
- () The circulation on this site is not satisfactory.
- () The parking arrangement is not satisfactory.
- () This property contains soils which are defined as wetlands, and development on these soils is prohibited.
- () Construction in or alteration of the Floodplain is prohibited under the provisions of Section 22-89 of the Development Regulations.
- () Development of this site may constitute a potential conflict with the Baltimore County Master Plan.
- () The amended development plan was approved by the Planning Board on _____.
- () The proposed project must comply with Baltimore County Landmarks Panel.
- () The property is located in a deficient service area as defined by Bill 178-79. No building permit may be issued until a Reserve Capacity Use Certificate has been issued. The deficient service is _____.
- () The property is located in a traffic area controlled by a "no" level intersection as defined by Bill 178-79, and as conditions change are re-evaluated annually by the County Council. The Basic Services Area is _____.
- () Additional comments: _____

cc: James Howell

Europe A. Sobor
Chief, Current Planning and Development

BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

STEPHEN E. COLLINS
DIRECTOR

November 15, 1985

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. -ZAC-
Property Owner: 137
Location: Gene Fullano, et al
Existing Zoning: 5904 Point Pleasant Road
Proposed Zoning: D.R. 5.5

Meeting of October 22, 1985
Special Hearing to approve a community care center/group home in a D.R. 5.5 zone, located at 5904 Point Pleasant Road without benefit of the acquisition of Special Exception pursuant to Sec. 1801.1 C.6A and in conflict with Sec. 1801.1B of B.C. Z. R.

Acres:
District: 14th

Dear Mr. Jablon:

The Department of Traffic Engineering has not received a plan for this item.

[Signature]
Michael S. Flanagan

MSP/bld

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3610

TED ZALESKI, JR.
DIRECTOR

November 22, 1985

"NO PLANS"

Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item # 137 Zoning Advisory Committee Meeting are as follows:

Property Owner: Gene Fullano, et al
Location: 5904 Point Pleasant Road
District: 14th.

APPLICABLE ITEMS ARE CIRCLED:

- (X) All structures shall conform to the Baltimore County Building Code as adopted by Council Bill #17-85, the Maryland Code for the Handicapped and Aged (A.M.S.I. #117-1 - 1980) and other applicable Codes and Standards.
- B. A building and other miscellaneous permits shall be required before the start of any construction.
- C. Residential: Two sets of construction drawings are required to file a permit application. The seal of a Registered Professional Engineer or Architect is not required on plans and technical data.
- D. Commercial: Three sets of construction drawings sealed and signed by a registered Professional Engineer or Architect shall be required to file with a permit application. Approved seals are not acceptable.
- E. All One Group except B-1 Single Family Detached Dwellings require a minimum of 1 hour fire rating for exterior walls closer than 6'-0" to an interior lot line. All One Groups require a one hour wall if closer than 3'-0" to an interior lot line. Any wall built on an interior lot line shall require a fire or party wall. See Table 401, Section 401.1, Section 401.2 and Table 402. No openings are permitted in an exterior wall within 3'-0" of an interior lot line.
- F. The structure does not appear to comply with Table 505 for permissible height/area. Reply to the requested variance by this office cannot be considered until the necessary data pertaining to height/area and construction type is provided. See Table 401 and 505 and have your architect/engineer contact this department.
- G. The requested variance appears to conflict with Section(s) _____ of the Baltimore County Building Code.
- H. When filing for a required Change of Use/Occupancy Permit, an alteration permit application shall also be filed along with three sets of acceptable construction plans indicating how the existing structure is to be altered in order to comply with the Code requirements for the new use. Maryland Architectural or Engineer seals are usually required. The change of Use Group are from Use _____ to Use _____ or to Mixed Use. See Section 312 of the Building Code.
- I. The proposed project appears to be located in a Flood Plain, Flood Hazard. Please see the attached copy of Section 516.0 of the Building Code as adopted by Bill #17-85. Site plans shall show the correct elevations above sea level for the lot and the finished floor levels including basement.
- (X) Comments: Permits for Day Care Center usage in existing or new buildings so designed shall be the responsibility of the owner or a bonafide agent.

These abbreviated comments reflect only on the information provided by the drawings submitted to the Office of Planning and Zoning and are not intended to be construed as the full extent of any permit. To receive the applicant's full information, please visit Room 122 of the County Office Building at 111 W. Chesapeake Avenue, Towson, Maryland 21204.

L/22/85

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

86-274-SPH

District: 14th Date of Posting: 1/28/86
Posted for: Appeal
Petitioner: Gene Fullano, et al
Location of property: 5904 Point Pleasant Rd.
Location of Sign: Signs on Point Pleasant Rd., across 14th Ex. roadway
Remarks: Re: Property of Fullano
Posted by: *[Signature]* Date of return: 1/14/86
Number of Signs: 1

86-274-SPH 14th District
5904 Point Pleasant Road
Gene Fullano, et al
1 SIGN

IN RE: PETITION FOR SPECIAL HEARING
5904 Point Pleasant Road - 14th Election District

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY
Case No. 86-274-SPH

ORDER OF APPEAL

Mr. Commissioner:

Please enter an Appeal from your Findings of Fact and Conclusions of Law, concerning the above-captioned matter, dated February 7, 1986, to the County Board of Appeals for Baltimore County, on behalf of the following: Edward Trovato, 5909 Daybreak Terrace, Baltimore, Maryland 21206 and Frank Raspa, 5906 Point Pleasant Road, Baltimore, Maryland 21206;

It is respectfully requested that this matter be renamed in the Baltimore County, Maryland No. 018462

OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE 1-10-86 ACCOUNT B-01-415-000
AMOUNT \$ 80.00
RECEIVED FROM S. E. DiNenna, Esquire

Appeal of Case No. 86-274 - Gene Fullano, et al
BID ***** 11167
Validation or Signature of Cashier
Gelfman, Esquire, Oakland Ridge Professional Building, 9123 Old Annapolis Road (Route 108) Columbia, Maryland 21045;

Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 223, Court House, Towson, Maryland 21204.

S. ERIC D. NENNA

PETITION FOR SPECIAL HEARING
14th Election District
LOCATION: 5904 Point Pleasant Road

DATE AND TIME: Monday, January 20, 1986 at 10:15 a.m.
PUBLIC HEARING: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Special Hearing for a community care center/group home in a D.R. 5.5 zone.

Being the property of Gene Fullano, et al as shown on the plat filed with the Zoning Office.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF
ARNOLD JABLON
ZONING COMMISSIONER
OF BALTIMORE COUNTY

RE: THE MATTER OF THE PETITION FOR SPECIAL HEARING FOR 5904 POINT PLEASANT ROAD : BEFORE THE ZONING COMMISSIONER : OF BALTIMORE COUNTY : Case No. 137

ANSWER TO THE PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

United Cerebral Palsy of Central Maryland, Inc., by and through its attorney, Richard D. Gelfman and Gelfman, Gelfman and Lyon, P. A. in response to the Petition filed herein by GENE FULLANO and EDWARD TROVATTO, Petitioners, states as follows:

1. That United Cerebral Palsy of Central Maryland, Inc. (UCP) is a contract purchaser for the subject property and therefore should be included as an interested party in the above captioned matter.

2. That the use of the subject property does fall and shall continue to fall within the definition of a family as defined in the Baltimore County Zoning Regulation and therefore needs no special exception nor approval by this Commission.

Richard D. Gelfman
Gelfman, Gelfman & Lyon, P. A.
Oakland Ridge Professional Bldg.
9123 Old Annapolis Road (Rt 108)
Columbia, Maryland 21045
Telephone: (301) 995-1824
Attorney for United Cerebral Palsy

GELFMAN, GELFMAN & LYON, P.A.
OAKLAND RIDGE PROFESSIONAL BLDG.
9123 OLD ANNAPOLIS RD.
CITY 108
COLUMBIA, MD. 21045
995-1824

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 29th day of October, 1985, a copy of the foregoing Answer to the Petition for Special Hearing, was mailed, postage prepaid to S. Eric DiNenna, Esquire, at 406 West Pennsylvania Avenue, Towson, Maryland 21204.

Richard D. Gelfman

GELFMAN, GELFMAN & LYON, P.A.
OAKLAND RIDGE PROFESSIONAL BLDG.
9123 OLD ANNAPOLIS RD.
CITY 108
COLUMBIA, MD. 21045
995-1824

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
5904 Point Pleasant Rd., : OF BALTIMORE COUNTY
14th District
GENE FULLANO, et al, Petitioners : Case No. 86-274-SPH

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, Maryland 21204
474-2188

I HEREBY CERTIFY that on this 20th day of December, 1985, a copy of the foregoing Entry of Appearance was mailed to S. Eric DiNenna, Esquire, 406 W. Pennsylvania Ave., Towson, MD 21204, Attorney for Petitioners; and Dorothy Kucik, 5904 Point Pleasant Road, Baltimore, MD 21206, owner of subject property.

Peter Max Zimmerman
Peter Max Zimmerman

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

January 16, 1986

S. Eric DiNenna, Esquire
406 West Pennsylvania Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing
5904 Point Pleasant Road
14th Election District
Gene Fullano - Petitioner
Case No. 86-274-SPH

Dear Mr. DiNenna:

This is to advise you that \$47.84 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

THIS FEE MUST BE PAID AND THE ZONING SIGN AND POST RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Do not remove sign from property from the time it is placed by this office until the day of the hearing.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE 1/14/86 ACCOUNT B-01-415-000
AMOUNT \$ 47.84

RECEIVED FROM S. E. DiNenna
FOR 14th Election District - 86-274-SPH
Validation or Signature of Cashier

MAP 40
E.D. 14
DATE 1-18-79
200
1000
DP

86-274-SPH
#137

86-274-SPH
#137

86-274-SPH
#137

86-274-SPH
#137

IN RE: PETITION SPECIAL HEARING * BEFORE THE
5904 Point Pleasant Road - * ZONING COMMISSIONER
14th Election District * OF BALTIMORE COUNTY
Gene Fullano, et al, *
Petitioners * Case No. 86-274-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request an interpretation by the Zoning Commissioner as to the placement of a "group home" in their neighborhood.

The Petitioners, area residents, appeared and were represented by Counsel. The property owner, United Cerebral Palsy of Maryland, Inc. (UCP), also appeared and was represented by Counsel. Lisa Torgerson, Director of Adult Services for UCP, although called by the Petitioners to testify, was the only witness for both sides.

Testimony indicated that UCP purchased a three-bedroom, single-family detached dwelling on property zoned D.R.5.5 and located at 5904 Point Pleasant Road for the purpose of establishing an alternative living unit (ALU) for three adults afflicted with cerebral palsy. The Petitioners believe that such a facility cannot be located in a residential zone as a matter of right but only by special exception for either a community care center or rooming house. UCP argued conversely that the proposed use satisfies the definition of "family" in Section 101, Baltimore County Zoning Regulations (BCZR), and since single-family dwellings are permitted as a matter of right in residential zones, the proposed use should be allowed without a special exception.

Ms. Torgerson testified that UCP operates ten similar ALU's within Baltimore County, each housing three adults afflicted with cerebral palsy, for the purpose of providing residential living alternatives to the institutionalization of individuals with severe handicaps such as cerebral palsy. Inasmuch as

these individuals cannot always provide a full range of movement by themselves, UCP supplements their living arrangement with professional counselors who may supervise and assist the residents with physical mobility, personal hygiene, household and related chores that require physical exertion beyond their physical capability, and food preparation. The counselors, who work in shifts, do not reside at the facility but do share meals with the residents while on duty.

The residents' daily routine corresponds with that of a typical family, i.e., preparing and eating meals together, sharing a common kitchen, leaving the home for their daily tasks, returning in the late afternoon, and sharing their leisure time. During the week, the residents leave the home for vocational rehabilitation, employment, or educational advancement. There would be no training, rehabilitation programs, or medical treatment provided in the home. Each of the residents share the responsibility of maintaining the house and contribute financially to UCP what each can afford. The subject dwelling is owned by UCP, and the residents are not on the deed nor are they responsible for the mortgage. The only renovations to the house will be the erection of an outside ramp and interior alterations to accommodate the residents' wheelchairs.

It is expected that these people will be long-term residents of the house as they will probably require assistance for life. They would not be expected to leave unless there were a change in their physical condition or hospitalization were required. There are no restrictions placed upon their movements beyond those created by their own physical handicaps. Additionally, ALU is certified by the State Department of Mental Hygiene and must satisfy certain criteria established by the State prior to the residents being accepted. In-

deed, the shortest time anyone has stayed in a UCP operated ALU was two years.

The Petitioners request, pursuant to Section 500.7, BCZR, that the Zoning Commissioner determine that the proposed use is either a community care facility or rooming house, both of which would require a special exception. They argued that the proposed use does not meet the definition of "family", as found in the BCZR, and therefore, the use cannot be located in a residential zone as a matter of right.

Government alone is not presently able to cope with the placement of those persons impaired either physically or psychologically. The State and County must provide the means by which such people can be returned to the community and contribute to the well-being of that community. A large body of Federal and State law, together with a professional consensus, has emerged concerning the necessity of deinstitutionalization and community residential living for handicapped persons. Requirements for deinstitutionalization and treatment and rehabilitation programs in the "least restrictive alternative" have been found to be mandated under Federal statutes, i.e., the Developmental Disabilities Assistance and Bill of Rights Act and Section 504 of the Rehabilitation Act of 1973, and under many State laws. Frequently, the right to community alternatives rather than institutionalization has been enforced by judicial decisions. See, e.g., Gary W. v. State of Louisiana, 437 F Supp. 1209 (E.D. La., 1976); Welsch v. Likins, 373 F Supp. 487 (D Minn., 1974); Halperman v. Pennhurst State School & Hospital, 446 F Supp. 1295 (E.D. Pa., 1978); Lynch v. Baxley, 386 (1974).

The importance of deinstitutionalization and the provision of community residential alternatives is clearly recognized in Maryland law. Strong statements favoring community alternatives to institutionalization have been

implemented by various laws adopted by the State whenever appropriate. These statutes made the development of community programs not merely a desirable option but a legislatively imposed obligation. See Section 7-102, et al, Health-General Article.

Strong public policies exist for the establishment of alternatives to institutionalization. Any inconvenience to the local community pales into insignificance when contrasted with the right of people, who happen to be afflicted with a handicap, to live where they choose.

The BCZR defines "family" as "[a]ny number of individuals lawfully living together as a single housekeeping unit and doing their cooking on the premises, as distinguished from a group occupying a boarding or rooming house or hotel."

In Moore v. City of East Cleveland, 431 US 494 (1977), the Supreme Court invalidated a Cleveland, Ohio ordinance under which a grandmother was being prosecuted for allowing her grandson to live with her. The Court held that such a restrictive definition of "family" invaded the right of family privacy and therefore had to be measured under a stricter standard of review than was applicable in Village of Belle Terre v. Boraas, 416 US 1 (1974), in which the Court ruled that a local ordinance that limited a "family" to persons related by blood, adoption, or marriage or to not more than two unrelated persons living together as a single-housekeeping unit was constitutional. As a result of the Moore, supra, decision, there would have to be sufficient governmental interest to justify the ordinance to pass constitutional muster. The Baltimore County ordinance, however, does not limit a "family" to blood, marriage, or adoption and does not limit the number of people living together. The ordinance, therefore, is what constitutes a "family" within the meaning of the

local law and whether any arbitrary determination would in turn violate due process constitutional strictures against discrimination.

The strong position taken by the State Legislature is to deinstitutionalize the handicapped by striving for community living arrangements. These alternatives, e.g., halfway houses, cooperative apartments, group homes, foster homes, family care programs, sheltered care facilities, et al, are contrasted with the typical, and traditional, residential institution where the physically and mentally handicapped have heretofore resided. Legislators in and out of Maryland have determined that it is in the best interest of the handicapped to leave these institutions and be relocated in the various alternatives mentioned. Community integration rather than isolation in rural or industrial areas is the goal. To accomplish this, it is obvious that the alternative living arrangements must be located within and integrated into the residential community. It is neither the purpose nor the intent here to review or judge the veracity of the objective sought. The sole responsibility is to review and apply the existing law.

Section 1B01.1A.1, BCZR, permits dwellings as a matter of right in D.R. zones, including, but not limited to, one-family detached houses. As in most local zoning codes, the word "family" is further defined. Some include limitations, as in Borras, supra, while others are rather broadly written, as in the BCZR. The issue of whether or not the UCP ALU constitutes a "family", defined by the BCZR as any number of individuals lawfully living together as a single-housekeeping unit and doing their cooking on the premises, is one of fact based on the circumstances under which the ALU is operated. Attention must be given to the length of stay of the residents, whether the house will be used for the treatment of persons not actually residing there, whether the residents conduct their lives independently from one another, and whether the

residents live and eat together as a unit. See Allied Services for the Handicapped, Inc. v. Zoning and Hearing Board of the City of Scranton, 459 A.2d 60 (Pa., 1983). The controlling factor in considering whether a group of unrelated individuals living together as a single-housekeeping unit constitutes a family, for the purpose of compliance with a zoning restriction, is whether the residents bear the generic characteristics of a relatively permanent functioning family unit. State v. Baker, 405 A.2d 368 (N.J., 1979). See, e.g., Pemberton Township v. State, 429 A.2d 360 (N.J., 1981), use of a residence as a group home for six to eight boys, aged 8 to 13, who had been adjudicated delinquent for minor offenses, to be a permissible single-family use of the dwelling as their residency would simulate the dynamics and functioning of a natural family; Y.W.C.A. v. Bd. of Adjustments Summit, 341 A.2d 356 (N.J., 1975), occupancy of a residence by ten adolescent girls permitted as a "family"; Bergen v. State, 364 A.2d 993 (N.J., 1976), a group home used for the residency of eight to twelve unrelated multi-handicapped preschool children under the care and supervision of two foster parents permitted as a "family"; Township of Washington v. Cent. Bergen Comm. Health, 383 A.2d 1194 (N.J., 1978), use of a residence for recovered mental patients, five unrelated women whose occupancy was permanent in character and not transitory, who shared the responsibilities for performing the ordinary tasks of cooking, cleaning, and shopping and who "present a picture very much akin to that of a traditional family and their lifestyle is not a transient or temporary nature...", permitted as a "family". Mongony v. Bevilacqua, 432 A.2d 661 (R.I., 1981); Saunders v. Clark County Zoning Dept., 421 NE.2d 152 (Ohio, 1981); Linn County v. City of Hiawatha, 311 NW.2d 95 (Iowa, 1981); Coschey v. Caromem House, Inc., 313 NW.2d 21 (Minn., 1981); J. T. Hobby & Son,

Inc. v. Family Homes of Wake County, Inc., 266 SE.2d 32 (N.C., 1980); Chil-dren's Home of Easton v. Easton, 417 A.2d 830 (Pa., 1980); Hopkins v. Zoning Hearing Bd. of Abington Township, 423 A.2d 1081 (Pa., 1980); Oliver v. Zoning Commissioner of Town of Chester, 326 A.2d 841 (Conn., 1974); and White Plains v. Ferraioli, 357 NYS.2d 449 (1974). See also 2 Rathkopf, The Law of Zoning and Planning, (4th Ed., 1984, and Cum. Supp.), Section 17A.05 at 17A-22 and 71 ALR 3d 693 (1976).

It is evident that there must be a kind of stability, permanency, and functional lifestyle exhibited which is equivalent to that of the traditional family unit in order for a group of unrelated persons living together as a single housekeeping unit to constitute a "family" in terms of a zoning regulation. When the zoning regulation does not limit the size of the "family" nor restrict as to blood, marriage, or adoption, the conditions as outlined above are presumptive that the regulation is satisfied. Any other conclusion would conflict with Moore, supra, and raise serious constitutional questions as to deprivation of due process rights guaranteed to the handicapped.

There is no question that, in the instant matter, the conditions precedent for determining if the proposed use constitutes a "family" within the meaning of the BCZR do exist. Ms. Torgerson's uncontradicted testimony clearly established the permanency of the residency, the stability of the living arrangement, and the lifestyle of those who will reside in the dwelling, which will be exactly the same as that which is normally associated with the traditional family unit.

Although not precedent nor binding, a decision by Circuit Court Judge George B. Rasin, Jr., in County Commissioners of Caroline County v. Loscomby

ORDER RECEIVED FOR FILING
DATE 1-18-79
BY ADMINISTRATIVE ASSISTANT

ORDER RECEIVED FOR FILING
DATE 1-18-79
BY ADMINISTRATIVE ASSISTANT

ORDER RECEIVED FOR FILING
DATE 1-18-79
BY ADMINISTRATIVE ASSISTANT

ORDER RECEIVED FOR FILING
DATE 1-18-79
BY ADMINISTRATIVE ASSISTANT

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 1124 Date of Posting: 12/17/85
Posted for: Special Hearing
Petitioner: Gene Fullano et al.
Location of property: No. 5904 Point Pleasant Rd., Towson, Md. 21204
Location of Sign: Gene Fullano et al., 5904 Point Pleasant Rd., Towson, Md. 21204
Remarks: Address location identified by Mark W. Thacker, Jr., Council Member
Posted by: [Signature] Date of return: 1/2/86
Number of Signs: 1

CERTIFICATE OF PUBLICATION

TOWSON, MD., January 2, 1986
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on January 2, 1986.

THE JEFFERSONIAN,

[Signature]
Publisher

Cost of Advertising

22.00

Case No. 86-274

The Times

Middle River, Md., Jan 2, 1986

This is to certify, that the annexed

[Signature]
Page 1 of 115

was inserted in The Times, a newspaper printed and published in Baltimore County, once in each

of one successive

weeks before the 2nd day of

Jan, 1986
[Signature] Publisher.

December 20, 1985

S. Eric DiNenna, Esquire
406 W. Pennsylvania Avenue
Towson, Maryland 21204

NOTICE OF HEARING

Re: PETITION FOR SPECIAL HEARING
5904 Point Pleasant Road
14th Election District
Gene Fullano - Petitioner
Case No. 86-274-SPH

TIME: 10:15 a.m.
DATE: Monday, January 20, 1986
PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 012330
DATE: 1/4/86 ACCOUNT: P-01-17-100
AMOUNT: 100.00
RECEIVED FROM: J. Eric DiNenna
FOR: 111 West Chesapeake #137
VALIDATION OF SIGNATURE OF CARRIER

2. Time of Performance and Duration of Agreement

This Agreement shall be considered to be terminated upon completion of the Program or at such time when the funds have been spent, whichever is first to occur, and shall be completed within eighteen months from the date of execution of this contract.

3. Compensation and Method of Payment

a. Compensation

The County shall, subject to the availability of funds from the U.S. Department of Housing and Urban Development, pay the Agency the sum of Seventeen Thousand Five Hundred Dollars (\$17,500) as full and complete payment for services rendered hereunder, in accordance with the budget contained in the Program which is attached hereto and made a part hereof marked Appendix C.

b. Method of Payment

After the Agency has a fully executed contract with the contractor, the County shall disburse funds upon submission to the County by the Agency of a Payment Authorization Form, hereinafter called "Payment Authorization," which reflects the cost of the work completed and approved for payment by the Agency and the County. The number and frequency of Payment Authorization will be determined by the construction contract between the Agency and the contractor in which the County shall be named as Escrow Agent.

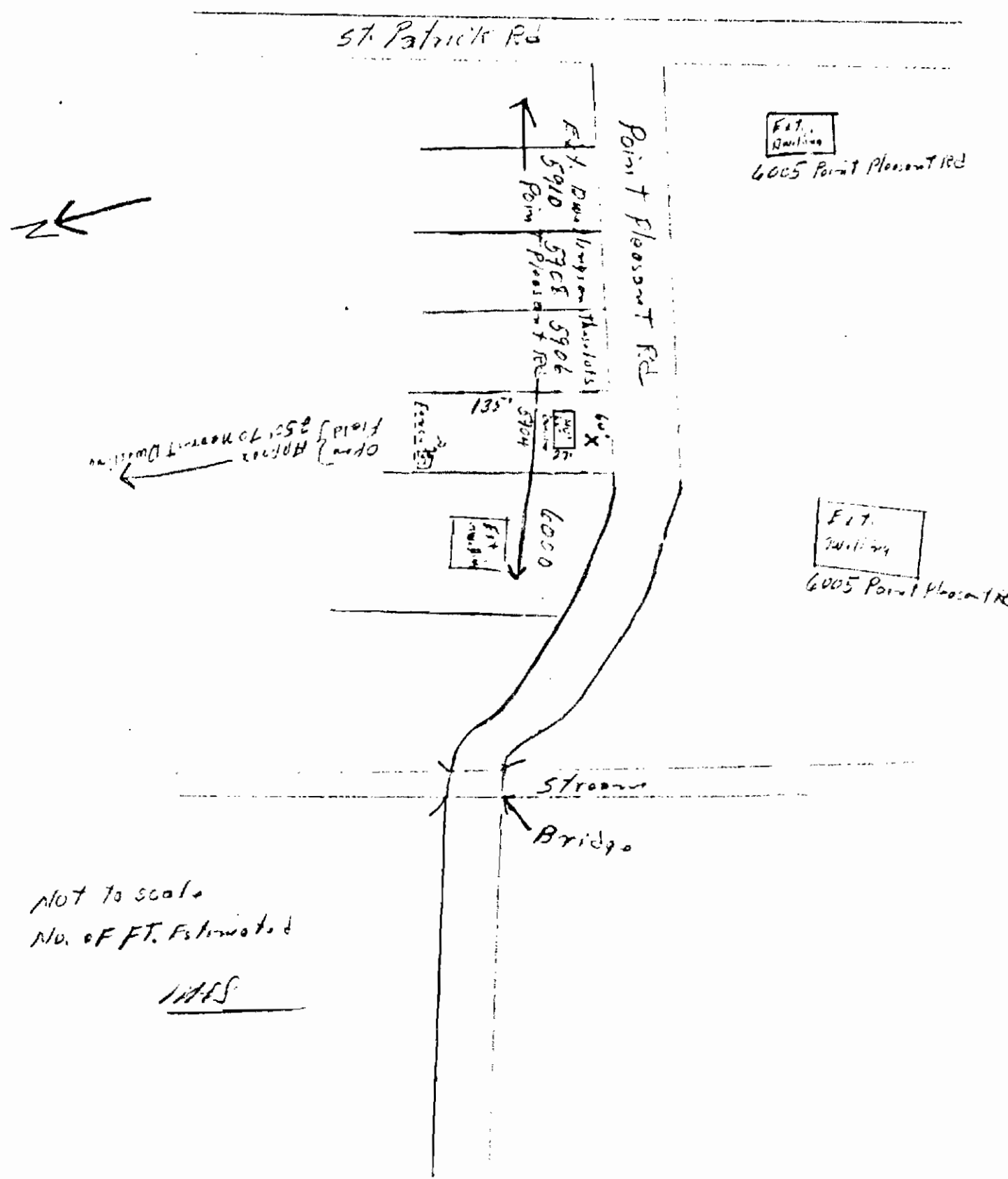
c. No expenditure which varies from the budget contained in Appendix C herein shall be incurred unless prior written approval is received by the Agency from the Project Director.

d. It is expressly understood and agreed that in no event will the total compensation and reimbursement, if any, to be paid hereunder exceed the maximum sum of Seventeen Thousand Five Hundred Dollars (\$17,500) for all services required.

e. The County assumes no obligation for funding beyond the term specified in this agreement.

4. Records

The accounting systems, procedures, and records of the Agency shall be in accordance with accounting procedures acceptable to the County and the U.S. Department of Housing and Urban Development. Records shall be maintained for a period of three years after receipt of the final payment under this Agreement. In the event Agency goes out of existence, it shall be required to turn over to the County and/or HUD all records relevant to the Program.



THIS AGREEMENT, made this 19 day of Sept, 1985, by and between
BALTIMORE COUNTY, MARYLAND, a body corporate and politic (hereinafter called "County") and UNITED CEREBRAL PALSY OF CENTRAL MARYLAND, INC., a private non-profit corporation for persons with handicapping conditions (hereinafter called "Agency").

WHEREAS, Title I of the Housing and Community Development Act of 1974 and subsequent Amendments (hereinafter called the "Act") provides for grants to local jurisdictions for acquisition and/or renovation of Residential Alternatives for the handicapped, and specifically activities eligible in, but not limited to Section 570:201 a, b, c, e, and k and 570:202 of the Rules and Regulations of the Community Development Block Grant Program as outlined in Federal Register, Vol. 43, No. 186, September 23, 1978, which is attached hereto and made a part hereof marked Appendix A.

WHEREAS, the County has designated the County Development Coordinator, hereinafter called "Project Director," as coordinator and monitor of programs in Baltimore County funded under the Act and the Coalition for Handicapped Persons provides technical advice to the "Project Director," and

WHEREAS, the County has received approval of a Community Development Block Grant application which contained funding for the below-mentioned project;

WHEREAS, the County desires to engage the Agency to render certain services in connection with said Community Development Block Grant Program,

NOW THEREFORE, the parties hereto do mutually agree as follows:

1. Scope of Services

The Agency shall, in a satisfactory and proper manner, as determined by the Project Director, perform the following services:

GENERAL:

These funds will be utilized for renovations of an Agency-owned single family dwelling unit at 5904 Point Pleasant Avenue, Baltimore, Maryland 21204. This housing renovation project is in accordance with the May 16, 1985 proposal entitled, "Proposal to Utilize Community Development Block Grant for Acquisition/Renovations of Alternative Living Units for United Cerebral Palsy of Central Maryland, Inc.," which is attached hereto and made a part hereof marked Appendix B.

b. Interest of Agency and Employees

(1) The Agency covenants that no person who presently exercises any functions or responsibilities in connection with the Program has any personal financial interest, direct or indirect, in the Program which would conflict in any manner or degree with the performance of his services hereunder. The Agency further covenants that in the performance of this Agreement, no person having any conflicting interest, shall be employed. Any interest on the part of the Agency, or its employees, must be disclosed to the Agency and HUD, and/or County. Provided, however, that this paragraph shall be interpreted in such manner so as not to impede unreasonably the statutory requirement that maximum opportunity be provided for employment of and participation by residents of the area. The Agency assures that it will incorporate the above provisions into every contract required to be in writing.

(2) By way of example, but without waiving the rights to approve or disapprove of other situations which may project a conflict of interest, the following situations are barred under the terms and provisions of this Agreement:

(a) No member of the Agency's Board of Directors may enter into a contract to perform services for the Agency without a full disclosure of all relevant facts and circumstances to the Project Director.

(b) It is expressly intended and agreed between the parties that the hereinbefore specified circumstances do not exhaust all possibilities of conflict of interest and that where such non-included circumstances arise, the Agency agrees to make full and complete disclosure to the Project Director for his or her determination which determination shall in all events be final.

5. Reports and Information

a. At such times and in such terms as HUD and/or the County may reasonably require, the Agency shall furnish such statements, records, reports and information as may be necessary pertaining to matters covered by this Agreement.

6. Audits and Inspections

At any time during normal business hours and at reasonable intervals as deemed necessary by the County, there shall be made available to the County and/or U.S. Department of Housing and Urban Development, for inspection and audit, all of the Agency's records with respect to all matters covered by this Agreement, and Agency will permit the County and/or HUD to make audits of all Contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

7. Conflict of Interest

a. Interest of Members of County

No officer, employee, or agent of the County who exercises any functions or responsibilities in connection with the planning and carrying out of the Program, or any other person who exercises any functions or responsibilities in connection with the Program shall have any personal financial interest, direct or indirect, in this Agreement and the Agency shall take appropriate steps to assure compliance.

8. Discrimination prohibited

a. In all hiring or employment made possible by the renovation contracts and subcontracts made by this Agreement: (1) there will not be any discrimination against any employee or applicant for employment because of race, color, religion, sex, handicapping conditions, or national origin, and (2) affirmative action will be taken to insure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, handicapping conditions, or national origin. This requirement shall apply to but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising, lay-off or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. There shall be posted in conspicuous places available to employees and applicants for such employment, notices to be provided setting forth the provisions of this clause. All solicitations or advertisements for such employees shall state that all qualified applicants will receive consideration for such employment without regard to race, color, religion, sex, handicapping conditions, or national origin.

b. No person in the United States shall, on the grounds of race, sex, handicapping conditions, color, religion, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Agreement.

9. Political Activity Prohibited

None of the funds, materials, property or services provided directly or indirectly under this Agreement shall be used in the performance of this Agreement for any partisan political activity or to further the election or defeat of any candidate for public office.

10. Lobbying Prohibited

None of the funds provided under this Agreement shall be used for publicity or propaganda purposes designed to support or defeat legislation pending before the Congress, State Legislature or County Council.

11. Termination of Contract for Cause

a. If, through any cause, the Agency shall fail to fulfill in a timely and proper manner, its obligations under this Contract, or if the Agency shall violate any of the covenants, agreements or stipulations of this Contract, the Project Director shall thereupon have the right to terminate this Contract by giving written notice to the Agency of such termination and specifying the effective date thereof, at least five days before effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Agency under this Contract shall, at the option of the County, become the property of the County and the Agency shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder.

b. Notwithstanding the above, the Agency shall not be relieved of liability to the County for damages sustained by the County by virtue of any breach of the Contract by the Agency, and the County may withhold any payments to the Agency for the purpose of set-off until such time as the exact amount of damages due the County from the Agency is determined.

12. Changes

The County may from time to time request changes in the scope of the services of the Agency to be performed hereunder. Such changes which consist of program modifications mutually agreed upon by and between the County and the Agency shall be incorporated in written amendments to this Agreement. The Agency may not deviate in any respect from the scope of services delineated without the written consent of the Project Director.

13. Personnel

a. The Agency represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the County.

b. All of the services required hereunder will be performed by the Agency, contractors, and subcontractors and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under the State and local law to perform such services.

c. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the County. Any work or services subcontracted hereunder shall be by written contract or agreement and shall be expressly or by incorporation by reference, subject each subcontract or agreement to each provision of this Agreement.

14. Assignability

The Agency shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or novation) without prior written consent of the Project Director thereto.

15. Subcontracts and Other Agreements

The Agency shall not subcontract any portion of the services to be provided hereunder without the proper written consent of the County. The Agency further agrees that prior to the execution of any contract or other legal instrument concerning the services to be provided hereunder, it will submit said contract to the County for its prior written approval.

16. Failure of Internal Systems

The Agency further agrees that should its audit, reports, or internal system of control prove to be inadequate, in the determination of the County Auditor, that it will permit a designee of the County to enter upon its premises and perform all acts necessary and relevant to the establishment of a proper system of internal fiscal control. The County agrees that when the system or systems conform to proper accounting practices, it will return jurisdiction and control to the Agency and its employees.

17. Job Specifications

The Agency shall submit to the County for its review as to conformity with the qualifications of the contractors and subcontractors.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EFFECTED THIS AGREEMENT AND HAVE CAUSED THE RESPECTIVE CORPORATE SEALS TO BE AFFIXED HERETO:

BALTIMORE COUNTY, MARYLAND

Witness
Donald P. Hutchinson
County Executive
UNITED CEREAL FALSY OF
CENTRAL MARYLAND, INC.
Witness
Harvey F. Borge, Jr.
President

REVIEW FOR FORM AND LEGAL SUFFICIENCY AND APPROVED FOR EXECUTION.

OFFICE OF LAW

James T. Smith, Jr.
Assistant County Attorney

BALTIMORE COUNTY COUNCIL

James T. Smith, Jr., Chairperson

934402
OFFICE OF FINANCE
6-05-67-10-07-31 \$17,500.00
Funds Available for Disbursement
9-285
m

-5-

MAKENDIX 7.

43556 Federal Register / Vol. 48, No. 108 / Friday, September 23, 1983 / Rules and Regulations

Community Development Block Grant/ State Program—44,225 (only as specified).

OMB Control Number
In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the reporting or recordkeeping provisions that are imposed by this regulation have been or will be submitted for approval to the Office of Management and Budget (OMB). Applicable OMB approval numbers are included in the text of the regulation.

List of Subjects in 24 CFR Part 570
Community development block grants; Grant programs: housing and community development; Loan programs: housing and community development; Low- and moderate-income housing; New communities; Pockets of poverty; Small cities.

Accordingly, the Department amends 24 CFR Part 570 as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The Table of Contents to Subparts A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z, AA, AB, AC, AD, AE, AF, AG, AH, AI, AJ, AK, AL, AM, AN, AO, AP, AQ, AR, AS, AT, AU, AV, AW, AX, AY, AZ, BA, BB, BC, BD, BE, BF, BG, BH, BI, BJ, BK, BL, BM, BN, BO, BP, BQ, BR, BS, BT, BU, BV, BW, BX, BY, BZ, CA, CB, CC, CD, CE, CF, CG, CH, CI, CJ, CK, CL, CM, CN, CO, CP, CQ, CR, CS, CT, CU, CV, CW, CX, CY, CZ, DA, DB, DC, DD, DE, DF, DG, DH, DI, DJ, DK, DL, DM, DN, DO, DP, DQ, DR, DS, DT, DU, DV, DW, DX, DY, DZ, EA, EB, EC, ED, EE, EF, EG, EH, EI, EJ, EK, EL, EM, EN, EO, EP, EQ, ER, ES, ET, EU, EV, EW, EX, EY, EZ, FA, FB, FC, FD, FE, FF, FG, FH, FI, FJ, FK, FL, FM, FN, FO, FP, FQ, FR, FS, FT, FU, FV, FW, FX, FY, FZ, GA, GB, GC, GD, GE, GF, GG, GH, GI, GJ, GK, GL, GM, GN, GO, GP, GQ, GR, GS, GT, GU, GV, GW, GX, GY, GZ, HA, HB, HC, HD, HE, HF, HG, HH, HI, HJ, HK, HL, HM, HN, HO, HP, HQ, HR, HS, HT, HU, HV, HW, HX, HY, HZ, IA, IB, IC, ID, IE, IF, IG, IH, II, IJ, IK, IL, IM, IN, IO, IP, IQ, IR, IS, IT, IU, IV, IW, IX, IY, IZ, JA, JB, JC, JD, JE, JF, JG, JH, JI, JJ, JK, JL, JM, JN, JO, JP, JQ, JR, JS, JT, JU, JV, JW, JX, JY, JZ, KA, KB, KC, KD, KE, KF, KG, KH, KI, KJ, KK, KL, KM, KN, KO, KP, KQ, KR, KS, KT, KU, KV, KW, KX, KY, KZ, LA, LB, LC, LD, LE, LF, LG, LH, LI, LJ, LK, LL, LM, LN, LO, LP, LQ, LR, LS, LT, LU, LV, LW, LX, LY, LZ, MA, MB, MC, MD, ME, MF, MG, MH, MI, MJ, MK, ML, MM, MN, MO, MP, MQ, MR, MS, MT, MU, MV, MW, MX, MY, MZ, NA, NB, NC, ND, NE, NF, NG, NH, NI, NJ, NK, NL, NM, NN, NO, NP, NQ, NR, NS, NT, NU, NV, NW, NX, NY, NZ, OA, OB, OC, OD, OE, OF, OG, OH, OI, OJ, OK, OL, OM, ON, OO, OP, OQ, OR, OS, OT, OU, OV, OW, OX, OY, OZ, PA, PB, PC, PD, PE, PF, PG, PH, PI, PJ, PK, PL, PM, PN, PO, PP, PQ, PR, PS, PT, PU, PV, PW, PX, PY, PZ, QA, QB, QC, QD, QE, QF, QG, QH, QI, QJ, QK, QL, QM, QN, QO, QP, QQ, QR, QS, QT, QU, QV, QW, QX, QY, QZ, RA, RB, RC, RD, RE, RF, RG, RH, RI, RJ, RK, RL, RM, RN, RO, RP, RQ, RR, RS, RT, RU, RV, RW, RX, RY, RZ, SA, SB, SC, SD, SE, SF, SG, SH, SI, SJ, SK, SL, SM, SN, SO, SP, SQ, SR, SS, ST, SU, SV, SW, SX, SY, SZ, TA, TB, TC, TD, TE, TF, TG, TH, TI, TJ, TK, TL, TM, TN, TO, TP, TQ, TR, TS, TT, TU, TV, TW, TX, TY, TZ, UA, UB, UC, UD, UE, UF, UG, UH, UI, UJ, UK, UL, UM, UN, UO, UP, UQ, UR, US, UT, UU, UV, UW, UX, UY, UZ, VA, VB, VC, VD, VE, VF, VG, VH, VI, VJ, VK, VL, VM, VN, VO, VP, VQ, VR, VS, VT, VU, VW, VX, VY, VZ, WA, WB, WC, WD, WE, WF, WG, WH, WI, WJ, WK, WL, WM, WN, WO, WP, WQ, WR, WS, WT, WU, WV, WW, WX, WY, WZ, XA, XB, XC, XD, XE, XF, XG, XH, XI, XJ, XK, XL, XM, XN, XO, XP, XQ, XR, XS, XT, XU, XV, XW, XX, XY, XZ, YA, YB, YC, YD, YE, YF, YG, YH, YI, YJ, YK, YL, YM, YN, YO, YP, YQ, YR, YS, YT, YU, YV, YW, YX, YZ, ZA, ZB, ZC, ZD, ZE, ZF, ZG, ZH, ZI, ZJ, ZK, ZL, ZM, ZN, ZO, ZP, ZQ, ZR, ZS, ZT, ZU, ZV, ZW, ZX, ZY, ZZ.

Subpart A—General Provisions

Sec. 570.1 Purpose.
570.2 Definitions.
570.3 Allocation of funds.
570.4 Waivers.

Subpart B—(Reserved)

Sec. 570.201 General policies.
570.202 Eligible activities.
570.203 Eligible planning and policy-making activities.
570.204 Special activities by subgrantees.
570.205 Eligible planning and policy-making activities.

Subpart C—Eligible Activities

Sec. 570.206 General policies.
570.207 Eligible activities.
570.208 Eligible planning and policy-making activities.

Subpart D—Eligible Grants

Sec. 570.209 General.
570.210 Precondition requirements.
570.211 Subsequent requirements.
570.212 Certifications.
570.213 Making of grants.
570.214 Moving assistance plan.
570.215 Urban centers.
570.216 Joint requests.

Subpart E—Other Program Requirements

Sec. 570.217 General.
570.218 Public facilities.
570.219 Executive Order 11808.
570.220 Section 106 of the Act.

Sec. 570.203 Labor standards.
570.204 Environmental standards.
570.205 Relocation and acquisition.
570.206 Employment and contracting opportunities.
570.207 Land-based point.
570.208 Use of donated, suspended, or otherwise unincorporated property.
570.209 Use of donated, suspended, or otherwise unincorporated property.
570.210 Use of donated, suspended, or otherwise unincorporated property.
570.211 Conflicts of interest.
570.212 Displacement.

Subpart M—Loan Guarantees

Sec. 570.201 Eligible activities.
570.202 Application requirements.
570.203 Loan requirements.
570.204 Federal guarantees.
570.205 Applicability of rules and regulations.

Subpart N—Program Management

Sec. 570.201 Review for compliance with primary objectives.
570.202 Review for compliance with primary objectives.

Subpart O—General Provisions

Sec. 570.1 Purpose.
570.2 Definitions.
570.3 Allocation of funds.
570.4 Waivers.

(a) This Part describes policies and procedures applicable to the following programs authorized under Title I of the Housing and Community Development Act of 1974, as amended:

(1) Entitlement grant program (Subpart D);

(2) Small Cities program: HUD-administered CDBG nonentitlement funds (Subpart F);

(3) State's program: State-administered CDBG nonentitlement funds (Subpart I);

(4) Urban Development Action Grant program (Subpart G); and

(5) Loan Guarantees (Subpart M).

(b) Subparts A, C, J, K, and O apply to all of the above programs administered by HUD but do not apply to the State's program (Subpart I) except to the extent expressly referred to in, for example, in § 570.4. (Until Subparts J, K, and O are amended to more completely reflect the Housing and Community Development Act of 1974, they should be read as applying to the Entitlement grant program in a manner which recognizes the claims of the subgrantee for the program for grants made in Federal Fiscal Year 1982 and thereafter.)

43558 Federal Register / Vol. 48, No. 108 / Friday, September 23, 1983 / Rules and Regulations

to undertake essential community development and housing assistance activities which do not effect to have their population excluded or (ii) with which it has entered into cooperation agreement, to undertake or to assist in the undertaking of essential community development and housing activities.

(2) has population in excess of one hundred thousand and a population density of five thousand persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of the Census. Any urban county which qualified as an urban county in Fiscal Year 1981, the population of the county (other than the population of metropolitan cities therein), and the population of which for Fiscal Year 1982 falls below the amount required by clause (1) of the preceding sentence by reason of the 1980 decennial census shall be considered as meeting the population requirements of such clause for Fiscal Year 1983 and shall not be subject to the provisions of § 570.201 in that fiscal year.

(3) "Urban Development Action Grant" (UDAG) means a grant made by the Secretary pursuant to section 119 of the Act and Subpart G of this Part.

(4) "Allocation of funds." (a) The determination of eligibility of units of general local government to receive entitlement grants, the entitlement amounts, the allocation of appropriated funds to States for use in nonentitlement areas, the reallocation of funds, and the allocation of appropriated funds for discretionary grants under the Act shall be determined by the Secretary in accordance with the procedures described in sections 108 and 107 of the Act, as supplemented in this section.

(b) The definitions in § 570.3 shall govern in applying the policies and procedures described in sections 108 and 107 of the Act.

(c) In determining eligibility for entitlement and in allocating funds under the Entitlement and HUD-administered Small Cities programs, the Department will recognize corporate status and geographical boundaries and the status of metropolitan areas and central cities effective as of July 1, 1980, and will apply the requirement and where application of the requirement would adversely affect the purposes of the Act.

(d) With respect to corporate status, as certified by the applicable State and available for processing by the Census Bureau as of such date.

(e) With respect to boundary changes or annexations, as accepted for publication by the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

(f) "City" means for purposes of Entitlement grant and Urban Development Action Grant eligibility (1) Any unit of general local government which is classified as a municipality by the United States Bureau of the Census or (2) any unit of general local government which is a town or township and which, in the determination of the Secretary, (i) possesses powers and performs functions comparable to those associated with municipalities; (ii) is closely related (except that the Secretary may reduce or waive the requirement on a case by case basis for the purposes of the Action Grant program); and (iii) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census, which have not entered into cooperation agreements with such town or township for a period covering at least 2 years to undertake or to assist in the undertaking of essential community development

processing by the Census Bureau as of such date, except that any such boundary change or annexations which exceed \$50,000 shall not be taken into account for purposes of this section.

(g) "Urban Development Action Grant" (UDAG) means a grant made by the Secretary pursuant to section 119 of the Act and Subpart G of this Part.

(h) "Allocation of funds." (a) The determination of eligibility of units of general local government to receive entitlement grants, the entitlement amounts, the allocation of appropriated funds to States for use in nonentitlement areas, the reallocation of funds, and the allocation of appropriated funds for discretionary grants under the Act shall be determined by the Secretary in accordance with the procedures described in sections 108 and 107 of the Act, as supplemented in this section.

(b) The definitions in § 570.3 shall govern in applying the policies and procedures described in sections 108 and 107 of the Act.

(c) In determining eligibility for entitlement and in allocating funds under the Entitlement and HUD-administered Small Cities programs, the Department will recognize corporate status and geographical boundaries and the status of metropolitan areas and central cities effective as of July 1, 1980, and will apply the requirement and where application of the requirement would adversely affect the purposes of the Act.

(d) With respect to corporate status, as certified by the applicable State and available for processing by the Census Bureau as of such date.

(e) With respect to boundary changes or annexations, as accepted for publication by the Office of Revenue Sharing (ORS) for the same fiscal year and available for processing by the Census Bureau as of such date.

Subpart C—Eligible Activities

Sec. 570.200 General policies

(a) Determination of eligibility. An activity may be financed in whole or in part with Community Development Block Grant (CDBG) funds only if all of the following requirements are met:

(1) Compliance with section 108 of the Act; such activity must meet the eligibility requirements of section 105 of the Act as further defined in this Subpart.

(2) Compliance with primary objectives. The Act establishes as its primary objective the development of viable urban communities, including decent housing and a suitable living environment, and expanding economic opportunity, principally for persons of low and moderate income. For grant recipients under the Entitlement and HUD-administered Small Cities programs, this overall objective is achieved through a program where the principal use of funds has been devoted so as to give maximum priority to activities which will carry out one of the broad national objectives of benefit to low and moderate income families or aid in the prevention or elimination of slums or blight; the projected use of funds may be estimated in accomplishing any such estimates the Secretary may use such other related information available from reputable sources as may seem appropriate, regardless of the date's point of period of time and shall use the best judgment possible in adjusting such data to reflect the same point or period of time as the overall data from which such deduction shall not create an imbalance with those overall data.

(3) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.212, Grant closeouts, shall be considered as funds available for reallocation.

(4) The Secretary may waive any requirement of this Part not required by law whenever it is determined that such waiver is necessary in the interest of the purposes of the Act.

(5) Subpart B of Part 570 is removed and is being reserved for future use.

Subpart B—(Reserved)

Subpart C of Part 570 is revised to read as follows:

Subpart C—Eligible Activities

Sec. 570.200 General policies

(a) Determination of eligibility. An activity may be financed in whole or in part with Community Development Block Grant (CDBG) funds only if all of the following requirements are met:

(1) Compliance with section 108 of the Act; such activity must meet the eligibility requirements of section 105 of the Act as further defined in this Subpart.

(2) Compliance with primary objectives. The Act establishes as its primary objective the development of viable urban communities, including decent housing and a suitable living environment, and expanding economic opportunity, principally for persons of low and moderate income. For grant recipients under the Entitlement and HUD-administered Small Cities programs, this overall objective is achieved through a program where the principal use of funds has been devoted so as to give maximum priority to activities which will carry out one of the broad national objectives of benefit to low and moderate income families or aid in the prevention or elimination of slums or blight; the projected use of funds may be estimated in accomplishing any such estimates the Secretary may use such other related information available from reputable sources as may seem appropriate, regardless of the date's point of period of time and shall use the best judgment possible in adjusting such data to reflect the same point or period of time as the overall data from which such deduction shall not create an imbalance with those overall data.

(3) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.212, Grant closeouts, shall be considered as funds available for reallocation.

(4) The Secretary may waive any requirement of this Part not required by law whenever it is determined that such waiver is necessary in the interest of the purposes of the Act.

(5) Subpart B of Part 570 is removed and is being reserved for future use.

Subpart B—(Reserved)

Subpart C of Part 570 is revised to read as follows:

Subpart C—Eligible Activities

Sec. 570.200 General policies

Subpart C—Eligible Activities

Sec. 570.200 General policies

(a) Determination of eligibility. An activity may be financed in whole or in part with Community Development Block Grant (CDBG) funds only if all of the following requirements are met:

(1) Compliance with section 108 of the Act; such activity must meet the eligibility requirements of section 105 of the Act as further defined in this Subpart.

(2) Compliance with primary objectives. The Act establishes as its primary objective the development of viable urban communities, including decent housing and a suitable living environment, and expanding economic opportunity, principally for persons of low and moderate income. For grant recipients under the Entitlement and HUD-administered Small Cities programs, this overall objective is achieved through a program where the principal use of funds has been devoted so as to give maximum priority to activities which will carry out one of the broad national objectives of benefit to low and moderate income families or aid in the prevention or elimination of slums or blight; the projected use of funds may be estimated in accomplishing any such estimates the Secretary may use such other related information available from reputable sources as may seem appropriate, regardless of the date's point of period of time and shall use the best judgment possible in adjusting such data to reflect the same point or period of time as the overall data from which such deduction shall not create an imbalance with those overall data.

(3) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.212, Grant closeouts, shall be considered as funds available for reallocation.

(4) The Secretary may waive any requirement of this Part not required by law whenever it is determined that such waiver is necessary in the interest of the purposes of the Act.

(5) Subpart B of Part 570 is removed and is being reserved for future use.

Subpart B—(Reserved)

Subpart C of Part 570 is revised to read as follows:

Subpart C—Eligible Activities

Sec. 570.200 General policies

(a) Determination of eligibility. An activity may be financed in whole or in part with Community Development Block Grant (CDBG) funds only if all of the following requirements are met:

(1) Compliance with section 108 of the Act; such activity must meet the eligibility requirements of section 105 of the Act as further defined in this Subpart.

(2) Compliance with primary objectives. The Act establishes as its primary objective the development of viable urban communities, including decent housing and a suitable living environment, and expanding economic opportunity, principally for persons of low and moderate income. For grant recipients under the Entitlement and HUD-administered Small Cities programs, this overall objective is achieved through a program where the principal use of funds has been devoted so as to give maximum priority to activities which will carry out one of the broad national objectives of benefit to low and moderate income families or aid in the prevention or elimination of slums or blight; the projected use of funds may be estimated in accomplishing any such estimates the Secretary may use such other related information available from reputable sources as may seem appropriate, regardless of the date's point of period of time and shall use the best judgment possible in adjusting such data to reflect the same point or period of time as the overall data from which such deduction shall not create an imbalance with those overall data.

(3) Amounts remaining after closeout of a grant which are required to be returned to HUD under the provisions of § 570.212, Grant closeouts, shall be considered as funds available for reallocation.

(4) The Secretary may waive any requirement of this Part not required by law whenever it is determined that such waiver is necessary in the interest of the purposes of the Act.

(5) Subpart B of Part 570 is removed and is being reserved for future use.

Subpart B—(Reserved)

Subpart C of Part 570 is revised to read as follows:

Subpart C—Eligible Activities

Sec. 570.200 General policies

43560 Federal Register / Vol. 48, No. 108 / Friday, September 23, 1983 / Rules and Regulations

subject to the provision of Subpart G, for:

(1) Activities eligible for assistance under this Subpart and

(2) Notwithstanding the provisions of § 570.207, such other activities as the Secretary may determine to be consistent with the purposes of the Urban Development Action Grant program.

(b) Basic eligible activities. (1) An application or request has been received by the Federal Agency for the proposed activity within the recipient's jurisdiction; and

(2) The recipient has been advised that funds will not be made available for at least 90 days after the date of the application or request, or there has been no response from the Federal Agency after 45 days from the date of the application or request.

(3) The following facilities are eligible only when located in or serving areas where other community development activities have been or are being carried out:

(i) Parking facilities;

(ii) Fire protection facilities and equipment; and

(iii) Solid waste disposal, recycling or conversion facilities.

(4) Clearance activities. Clearance, construction, reconstruction, rehabilitation or installation of public facilities and improvements, except as provided in § 570.207(a), carried out by the recipient or other public or private nonprofit entities in undertaking such activities, design features and improvements which promote energy efficiency may be included. Such activities may also include the execution of architectural design features, and similar treatments intended to enhance the aesthetic quality of facilities and improvements described in § 570.207(a).

(5) Public facilities. (Effective date: This paragraph is effective as of the beginning of the recipient's program funded from Federal Fiscal Year 1982 and subsequent appropriations.)

(6) Public services. (Effective date: This paragraph is effective as of the beginning of the recipient's program funded from Federal Fiscal Year 1982 and subsequent appropriations.)

(7) The execution of special garbage, trash, and debris removal, including neighborhood cleanup campaigns, but not the regular curbside collection of garbage or trash in an area.

(8) The repair of streets, sidewalks, parks, playgrounds, public health and safety in areas where the chief executive officer of the recipient determines that such repairs are necessary and requires immediate action.

(9) The activities specified in paragraph (1) above, except for the repair of streets and playgrounds, shall be carried out by the recipient or other public or private nonprofit entity (including a nonprofit organization) designated in the comprehensive plans, ordinances, or other local documents as a neighborhood.

(10) The entire jurisdiction of a unit of general local government which is under § 570.201 and § 570.204. Such costs include, but are not limited to, necessary expenditures for the following:

(i) Salaries, wages, and related costs of the recipient's staff, the staff of local public agencies, or other staff engaged in general management, coordination, monitoring, and oversight.

(ii) Travel costs incurred for official business in carrying out the program.

(iii) Administrative services performed under third party contracts or agreements, including such services as general legal services, accounting services, and audit services; and

(iv) Other costs for goods and services required for administration of the program.

(11) A neighborhood, village, or similar geographical designation, in a

made if HUD determines that the decrease in the level of a service will be fully qualified and shall be authorized or permitted under the State and local law to perform such services.

(2) The

APPENDIX C
BUDGET

Seventeen thousand five hundred dollars for installation of two handicapped
amps, renovating kitchen and bathroom, widening hall and bedroom doorways, re-
moving carpet padding and installing an automatic sprinkler system.....\$17,500

February 3, 1980
Case No. 86-277-3PH
GENE FULFORD, et al

FEB 4 1987

☐ Adult
☐ Rec'd
☐ Ret.
☐ Exp.
☐ Child

ZONING DEPARTMENT

By

Mr. Arnold Jablon
Zoning Commissioner
Baltimore County Office
of Planning and Zoning
Courthouse
Towson, Maryland 21204

Dear Mr. Jablon:

Pursuant to your request at the close of the Hearing held January 20, 1986, enclosed is a copy of the Community Development Block Grant contract concerning 5904 Pt. Pleasant Avenue for your files.

Please feel free to contact me at 668-4932 if you require additional information.

Sincerely,

Lisa Warren Torgerson
Lisa Warren Torgerson
Director, Adult Services Division

LWT:1b

cc: Dick Gelfman, Esq.

8641 Loch Raven Blvd. / Suite 2E / Towson, Maryland 21204 / (301) 658-4932

JAN 27 AM



12:00

RECORDS DEPARTMENT

Ref: PETITION 86-274 SP H
Eugene Fullano, Petitioner
5904 Point Pleasant Road
Baltimore, MD 21206

Hearing: January 20, 1986

86-274-SPT
GENE PULLANO, JR.

Baltimore County Zoning Office
111 West Chesapeake Avenue
Towson, MD 21204

Gentlemen:

We, the undersigned, wish to voice our opposition to a zoning reclassification to allow a community group home in the midst of residential properties. All of the homes situated on Point Pleasant Road are maintained by proud owners who presently worry that a group home would detract from the area.

It is our primary purpose to say NO to any changes, or special allowances, from the Zoning Office, at this time.

NAME	ADDRESS	
<u>Pg Robertson</u>	<u>6005 Point Pleasant</u>	<u>21206</u>
<u>John Chelton</u>	<u>6005 Point Pleasant Rd.</u>	<u>21206</u>
<u>Chelton</u>	<u>6003 Pt. Pleasant Rd</u>	<u>21206</u>
<u>Wally Wildon</u>	<u>320 St. Patrick Rd</u>	<u>21206</u>
<u>Benny Libellan</u>	<u>320 St Patrick</u>	<u>21206</u>
<u>Charles A. Libaldi</u>	<u>6001 Point Pleasant</u>	<u>21206</u>
<u>Catherine Rotappegal</u>	<u>6001 Point Pleasant Rd</u>	<u>21206</u>
<u>Angie H. Gjogel</u>	<u>321 St. Patrick Rd.</u>	<u>21206</u>

We the undersigned are of the opinion that the property located at 5934 Placid Pleasant Road needs a special exemption for a Community Care Center and should not be allowed as a matter of right.

Leroy W. Fisher 5915 Baybreak Terrace 21206
 Frank Plough 5906 Point Pleasant Rd 21206
 Bernadette Bayne 5906 Pt Pleasant Rd 21206
 Monique & Herman 6000 PT Pleasant Rd
 John H. Houn 6006 Point Pleasant Rd. 21206
 Eric Bettelhoff 6001 PT. PLEASANT RD. 21206
 James Hill 6000 Pt Pleasant Rd 21206
 Roger Spitzer 5903 Baybreak Inn 21206
 Robert Roberts 5903 Baybreak Ave 21206
 William Alworth 6001 Pt Pleasant Rd
 Gene D. Hall 6000 Pt. Pleasant Rd
 John C. Robertson 6005 Point Pleasant Rd. 21206
 William J. Siddle 5907 Baybreak Terrace

PETITIONER'S
EXHIBIT

Chancery No. 7175 (Circuit Court for Caroline County, September 11, 1978), directly on point, is persuasive:

Article 3 of the Caroline County Zoning Ordinance defines "family" as "one or more persons occupying a single housekeeping unit and using common cooking facilities, provided that unless all members are related by blood or marriage, no such family shall contain over four (4) persons"....

With respect to the definition of the word "family" in the zoning ordinance, in my opinion, when dealing with the definition we are concerned with the characteristics of a group of people. A group of people no larger than a normal family, living in a house that is a single family dwelling, eating together and having other characteristics of a family, meets the requirement of being considered a family. Zoning regulations cannot deal with the relationship of those persons who compose such a family group... If a group of persons are living together as a family unit—attempting to duplicate a normal family—with a couple, or even a single person or several people working together as a staff, acting as surrogate parents, and the house in which they live has one kitchen, one dining room in which the group eats as a family unit, and one or more bathrooms for the use of all members of the group, there exists a "family". I do not believe a zoning ordinance can by definition characterize the relationship so as to hold the group is not a family. I do not extend my holding to a fraternity house, dormitory, commune or small institution. But wherever it can be shown in situations similar to that now being considered by the Court that there is a true family unit, whether related or not, this satisfies the definition of a family. To hold otherwise would be unconstitutional under due process principles.

Notwithstanding the requirement for special exceptions for community care facilities and for rooming/boarding houses, it must be emphasized that if a living unit meets the definition of "family", it is not a community care facility and it is not a rooming or boarding house. To hold otherwise would be inconsistent.

The terms "boarding house" and "rooming house" for which a special exception are needed do not include:

1. single housekeeping units classified as a family;
2. programs or facilities for children;

- 8 -

3. units where meals are provided but that are not the primary residence of the owner;
4. adult foster care homes supervised by the Department of Social Services; and
5. apartment buildings, hotels, or motels.

The term "boarding house" can include a care home which meets the other criteria for qualification as a boarding house. The term "care home", however, does not include:

1. facilities providing only domiciliary care to fewer than four individuals and
2. adult residential homes certified by the Department of Human Resources.

The Petitioners argued that the UCP proposed use is a rooming or boarding house. The overriding facts are that the home here is not operated for commercial purposes, the residents do not pay a daily fee for lodging and meals, and residence at the home is permanent. See In Re: Miller, 482 A.2d 688 (Pa., 1984). Further, supervision and assistance are provided and a bona fide housekeeping unit would exist. Such factors are characteristic of a single housekeeping unit, thereby distinguishing a "family" from a rooming or boarding house. See McGinnis Appeal, 57 A.2d 108 (1982), cert. denied, 103 Sup. Ct. 2121 (1983). If the living unit satisfies the definition of "family", then it cannot be a rooming or boarding house.

As for the Petitioners' contention that the proposed use is a community care facility, it needs to be pointed out that the BCZR requires licensure by either the Department of Health and Mental Hygiene or the Department of Social Services, neither of which has licensed this facility. The proposed use cannot therefore be a community care center. Further, a facility does not fall within the definition of a community care center if its use satisfies the definition of "family". Living arrangements meeting the definition of

- 9 -

"family" are permitted as a matter of right in all residential zones. Living arrangements for handicapped people that operate as a single-housekeeping unit, as defined by the aforesaid characteristics, would constitute a "family" for zoning purposes and are unaffected by the community care center provisions. Commonly of small size and always possessing a family-like atmosphere, most of the group homes and ALU's would satisfy the definition of "family" and are consequently not community care centers.

In Howard County Assoc. for Retarded Citizens, Inc. v. Howard County Bd. of Appeals, Case Nos. 10609 and 10633, Circuit Court for Howard County, December 15, 1976, the Court was asked to prohibit a group home from being located in a residential zone as a matter of right. The Howard County zoning ordinance defined "family" as "[a] person living alone, or 2 or more persons living together as a housekeeping unit, with separate identity from other persons or groups in the same structure, having cooking facilities as a part of the area designated for his or their use." In a Memorandum Opinion, the Court examined a number of cases decided by courts in other states and decided that the group home proposed in Howard County satisfied the Howard County Zoning Regulations' definition of "family", and therefore, it was permitted as a matter of right.

This case involved the Howard County Association for Retarded Children (Association), a non-profit corporation, which proposed to purchase a single-family, five bedroom dwelling in a residential area. The dwelling had the home of a husband and wife and their seven children and the husband's father. The Association intended to use the dwelling as a group home for no more than eight "patients", all retarded and over the age of 18, and two supervisors. Each was required to contribute money to help defray the costs of operation. There was no particular room or space assigned to anyone,

- 10 -

and the housekeeping facilities, such as the kitchen, were for their common use.

The use of the dwelling in controversy here will be substantially as before although the purpose is different. Zoning, however, is concerned with use and not with ownership nor with the purposes of the owners or occupants. Mayor and City Council v. Poe, 224 Md. 428 (1960). This Court concludes that the use in question is permitted as a matter of right under the definition of "family" in the Howard County Zoning Regulations...

It is therefore clear that the proposed use by UCP is permitted as a matter of right. To describe otherwise would create a constitutional deprivation of due process under Boraas, supra. This conclusion makes it unnecessary to consider the other issues raised, i.e., preemption or implied preemption by State law which prohibits local jurisdictions from restricting or regulating those programs established by the State. See Article XI-A, Section 3, Md. Const.; 63 Op. Atty. Gen. 377 (July 21, 1978) (which examined the authority of county governments to restrict group residential facilities); and Sections 7-416, 7-2A-01, and 10-518, Health-Gen. Art., Md. Code.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief prayed for should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 7th February, 1986, that the group home proposed by UCP is permitted as a matter of right in a residential zone.

[Signature]
Zoning Commissioner of Baltimore County

AJ/srl
cc: S. Eric DiNenna, Esquire
Richard D. Gelfman, Esquire
People's Counsel

- 11 -

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described as follows: 5904 Point Pleasant Road in the 6th Councilmatic District of Baltimore County, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve a community care center/group home in a DR 5.5 R zone located at 5904 Point Pleasant Road in the 6th Councilmatic District of Baltimore County, owned by Dorothy Kuchik.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.: 296-6820

Legal Owner(s):

GENE FULLANO, 6000 Pt. Pleasant Road, Baltimore, MD 21206

Signature

EDWARD TROVATO

(Type or Print Name)

Signature

5909 Daybreak Terrace

Address

Baltimore, Maryland 21206

City and State

S. Eric DiNenna

Name

406 W. Pennsylvania Ave. 296-6820

Address

Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 12th day of December, 1985, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 20th day of January, 1986, at 10:15 o'clock.

[Signature]
Zoning Commissioner of Baltimore County.

(over)

IN RE: PETITION FOR SPECIAL HEARING 5904 Point Pleasant Road 14th Election District GENE FULLANO, ET AL

BEFORE THE COUNTY BOARD OF APPEALS Case No.: 86-274-SPH

ORDER OF DISMISSAL

Upon the foregoing Motion to Dismiss, it is ORDERED this 14th day of October, 1986, by the County Board of Appeals of Baltimore County, that the Petition for Special Hearing is hereby dismissed without prejudice.

[Signature]
William T. Hackett, Chairman

[Signature]
Lawrence E. Schmidt

[Signature]
Patricia Phipps

IN RE: PETITION FOR SPECIAL HEARING 5904 Point Pleasant Road 14th Election District GENE FULLANO, ET AL

BEFORE THE COUNTY BOARD OF APPEALS Case No.: 86-274-SPH

MOTION TO DISMISS

MR. CHAIRMAN:

Now Comes Edward Trovato and Frank Raspa, by S. Eric DiNenna and S. Eric DiNenna, P.A., and moves that the Petition for Special Hearing filed herein, by dismissed without prejudice; the parties hereto have reached an agreement and the subject property is no longer the subject of any controversy.

[Signature]
S. ERIC DINENNA
S. ERIC DINENNA, P.A.
406 West Pennsylvania Avenue
Towson, Maryland 21204
(301) 296-6820

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 3rd day of October, 1986, a copy of the foregoing Motion to Dismiss was mailed, postage prepaid, to Gelfman, Gelfman & Lyon, P.A., Attorneys at Law, and Richard D. Gelfman, Esquire, Oakland Ridge Professional Building, 9123 Old Annapolis Road (Route 108) Columbia, Maryland 21045; Phillis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 223, Court House, Towson, Maryland 21204.

[Signature]
S. ERIC DINENNA



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

October 14, 1986

S. Eric DiNenna, Esq.
406 W. Pennsylvania Ave.
Towson, Md. 21204

Dear Mr. DiNenna: Re: Case No. 86-274-SPH
Gene Fullano, et al

Enclosed herewith is a copy of the Order of Dismissal passed today by the County Board of Appeals in the above entitled matter.

Very truly yours,

[Signature]
June Holmen, Secretary

Encl.
cc: Mr. Gene Fullano
Mr. Edward Trovato
Richard D. Gelfman, Esq.
Mr. Frank Raspa
Phyllis C. Friedman
Malcolm F. Spicer, Jr., Esq.
James F. Garrity, Esq.
Norman E. Gerber
James Hoswell
Arnold Jablon
Jean Jung
James E. Dyer

Case No. 86-274-SPH
Item No. 137
Date: March 7, 1986

5904 Point Pleasant Road
14th Election District
Gene Fullano, et al, Petitioners

- ☒ 1. Copy of Petition
☐ 2. Copy of Description of Property
☒ 3. Copy of Certificate of Posting (1 Sign)
☒ 4. Copy of Certificates of Publication
☒ 5. Copy of Zoning Advisory Committee Comments
☒ 6. Copy of Comments from the Director of Planning
☐ 7. Planning Board Comments and Accompanying Map
☒ 8. Copy of Order to Enter Appearance
☒ 9. Copy of Order - Zoning/Deputy Zoning Commissioner
☒ 10. Copy of Plat of Property
☐ 11. 200' Scale Location Plan
☐ 12. 1000' Scale Location Plan
☐ 13. Memorandum in Support of Petition
☐ 14. Letter(s) from Protestant(s)
☐ 15. Letter(s) from Petitioner(s)
☒ 16. Protestants' Exhibits 1 to Community Development Block Grant Contract
☒ 17. Petitioners' Exhibits 1 to Neighborhood Petition.
☒ 18. Letter of Appeal
☒ 19. 4 Subpoena's
☒ 20. Answer to the Petition for Special Hearing
- Mr. Gene Fullano
6000 Point Pleasant Road
Baltimore, MD 21206
Petitioner
- Mr. Edward Travato
5909 Daybreak Terrace
Baltimore, MD 21206
Petitioner
- S. Eric DiNenna, Esquire
406 W. Pennsylvania Avenue
Towson, MD 21204
Attorney for Petitioners
- Richard D. Gelfman, Esquire
Oakland Ridge Professional Bldg.
9123 Old Annapolis Rd. (Rt. 108)
Columbia, MD 21045
Attorney for Protestant
United Cerebral Palsy
- Phyllis C. Friedman, Esquire
People's Counsel
- REQUEST NOTIFICATION: Norman E. Gerber, James Hoswell, Arnold Jablon,
Jean M. H. Jung, James E. Dyer



County Board of Appeals of Baltimore County
Room 200 Court House (Hearing Room #218)
Towson, Maryland 21204
(301) 494-3180

NOTICE OF POSTPONEMENT and REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 86-274-SPH GENE FULLANO, ET AL
5904 Point Pleasant Road
14th District
SPH-A community care center/group home in a DR 5.5 zone without benefit of the acquisition of a special exception
2/7/86 - Z.C.'s Order - SPH Denied
The above case, set for hearing on Wednesday, July 30, 1986, at 10 a.m., HAS BEEN POSTPONED by the Board at the request of the attorney for Protestant, United Cerebral Palsy, and
REASSIGNED FOR: THURSDAY, OCTOBER 2, 1986, at 10 a.m.
cc: Mr. Gene Fullano Petitioner
Mr. Edward Travato Petitioner-Appellant
S. Eric DiNenna, Esq. Counsel for Petitioners
Richard D. Gelfman, Esq. Counsel for Protestant-United Cerebral Palsy
Frank Raspa Appellant
Phyllis C. Friedman People's Counsel
Norman Gerber
James Hoswell
Arnold Jablon
Jean Jung
James Dyer

June Holmen, Secretary

4/16/86 - Notified of appeal hearing scheduled for WEDNESDAY, JULY 30, 1986 at 10 a.m.

Mr. Gene Fullano
Mr. Edward Travato
S. Eric DiNenna, Esq.
Richard D. Gelfman, Esq.
Frank Raspa
Phyllis C. Friedman

7/24/86 - Above notified of postponement and rescheduling of case for Oct. 2, '86, at 10 a.m.

Case No. 86-274-SPH

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

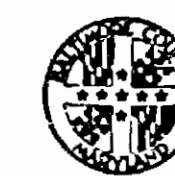
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
26th day of November, 1985.

Petitioner Gene Fullano, et al
Petitioner's S. Eric DiNenna, Esquire
Attorney

ARNOLD JABLON
Zoning Commissioner

Received by: James E. Dyer, Jr.
Chairman, Zoning Plans
Advisory Committee



County Board of Appeals of Baltimore County
Room 200 Court House (Hearing Room #218)
Towson, Maryland 21204
(301) 494-3180
April 16, 1986

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 86-274-SPH GENE FULLANO, ET AL
5904 Point Pleasant Road
14th District
SPH-A community care center/group home in a DR 5.5 zone without benefit of the acquisition of a special exception
2/7/86 - Z.C.'s Order-SPH Denied
ASSIGNED FOR: WEDNESDAY, JULY 30, 1986, at 10 a.m.

cc: Mr. Gene Fullano Petitioner
Mr. Edward Travato Petitioner-Appellant
S. Eric DiNenna, Esq. Counsel for Petitioners
Richard D. Gelfman, Esq. Counsel for Protestant-United Cerebral Palsy
Frank Raspa Appellant
Phyllis C. Friedman People's Counsel
Norman Gerber
James Hoswell
Arnold Jablon
Jean Jung
James Dyer

June Holmen, Secretary

IN RE: PETITION FOR
SPECIAL HEARING
5904 Point Pleasant
Road - 14th Election
District
BEFORE THE
BOARD OF APPEALS
OF BALTIMORE COUNTY
CASE NO. 86-274-SPH

APPEARANCE

Please enter the appearance of Malcolm F. Spicer, Jr., County Attorney and James F. Garrity, Assistant County Attorney, on behalf of Baltimore County, Maryland in the above captioned case which is scheduled for a hearing at 10:00 a.m. on July 30, 1986.

Malcolm F. Spicer, Jr.
County Attorney
James F. Garrity
Assistant County Attorney

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 25th day of April, 1986, a copy of the foregoing appearance was mailed, postage prepaid, to S. Eric DiNenna, DiNenna, Mann & Breschi, 406 W. Pennsylvania Avenue, Towson, Maryland 21204, and Gelfman, Gelfman & Lyon, P.A., Attorneys at Law, and Richard D. Gelfman, Esquire, Oakland Ridge Professional Building 9123 Old Annapolis Road, (Route 108) Columbia, Maryland 21045, Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 223, Courthouse, Towson, Maryland 21204.

James F. Garrity
Assistant County Attorney
Courthouse Mezzanine
Towson, Maryland 21204

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon
TO: Zoning Commissioner Date: January 17, 1986
Norman E. Gerber, AICP, Director
FROM: Office of Planning and Zoning
SUBJECT: Zoning Petition No. 86-274-SPH

In view of the subject of this petition, this office offers
no comment.

NEG:JGH:sim

Norman E. Gerber, AICP
Director

Case No. 86-274-SPH Gene Fullano, et al

The Board is in receipt of a letter of July 22, 1986, from Dick Gelfman, requesting a postponement of the hearing on Case No. 86-274-SPH, scheduled for July 30, 1986, at 10 a.m.

The Board's rules require that all requests for postponements be received 15 days prior to the scheduled hearing date unless extreme circumstances are noted. No such circumstances are claimed in the July 22nd communication. The Board will, however, note that agreement on granting a postponement has apparently been reached among all parties. Therefore the Board will grant the request for a postponement and will reschedule the hearing for 10 a.m. on Oct. 2, 1986.

Gelfman, Gelfman & Lyon, P.A.
Attorneys at Law
Oakland Ridge Professional Building
9123 Old Annapolis Road (Rt. 108)
Columbia, Maryland 21045

801 000-1004

July 22, 1986

County Board of Appeals of Baltimore County
Room 200
Court House
Towson, Maryland 21204

Hearing - July 30, 1986 at 10:00 a.m.
Re: Case No. 86-274-SPH
Petition for Special Hearing
5904 Point Pleasant Road -
14th Election District

Gentlemen:

Please be advised that United Cerebral Palsy of Central Maryland, Inc. would like to postpone the above-captioned hearing. Although the appeal was originally noted by opposing counsel, I have discussed this matter with him and he has no objection to a postponement.

Before setting this matter back in for a hearing, I would appreciate it if you would contact all counsel in this case with potential dates so that our schedules can be coordinated.

Sincerely,

GELFMAN & GELFMAN, P.A.

Dick Gelfman
Attorney for UCP

DG/ps
cc: S. Eric DiNenna, Esquire

ps sent
Oct. 2 per H.

RECEIVED
COUNTY BOARD OF APPEALS
JUL 24 9 52

DINENNA, MANN & BRESCHI
ATTORNEYS AT LAW

406 WEST PENNSYLVANIA AVE
TOWSON, MARYLAND 21204
(301) 296-6820

April 24, 1986

RE: Case No.: 86-274-SPH
5904 Point Pleasant Road

County Board of Appeals
of Baltimore County
Room 200
Court House
Towson, Maryland 21204

Madam Clerk:

I am in receipt of Notice of Assignment relative to the above-captioned matter.

I note that you have the case named Gene Fullano, et al. If you will note that the Order appealed was taken by Ed. Trovato and Frank Raspa and I would respectfully request that all future references to this matter be in the name of Edward Trovato, et al, inasmuch as Gene Fullano is no longer involved in this matter.

Thank you for your cooperation.

Very truly yours,
S. ERIC DINENNA

SED:kar
cc: Richard D. Gelfman, Esquire
Ed Trovato
Frank Raspa
Gene Fullano

4/29/86. With said designation step as case came to us from zoning

RECEIVED
COUNTY BOARD OF APPEALS
MAY 25 P 2 12

IN THE MATTER OF THE PETITION FOR SPECIAL HEARING

GENE FULLANO, et al

LOCATION: 5904 POINT PLEASANT ROAD
BALTIMORE COUNTY

CASE NO.: 86-274-SPH

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

SUBPOENA DUCES TECUM

MR. COMMISSIONER:

Please issue a Subpoena Duces Tecum for the following:

Donald Hotson, Executive Director
United Cerebral Palsy of Central Maryland, Inc.
3701 Old Court Road
Unit 12
Baltimore, Maryland 21208

DUCES TECUM - To appear and bring any records, correspondence, contracts, deeds, and any other documentation concerning the location of 5904 Point Pleasant Road, 14th Election District, Baltimore County, Maryland, including but limited to any documents, contracts, deeds with Baltimore County or any other individual.

MAKE SAME RETURNABLE for Monday, January 20, 1986, at 10:15 a.m. before the Zoning Commissioner of Baltimore County, County Office Building, Towson, Maryland 21204.

TO TESTIFY FOR THE PETITIONERS:

Served: 1/15/86
FEE: 15.00
J. Edward Maloney, Sheriff

Mr. Sheriff:

Please issue Subpoena Duces Tecum in accordance with the above.

AJ/sz

RECEIVED
COUNTY BOARD OF APPEALS
MAY 25 P 2 12

IN THE MATTER OF THE PETITION FOR SPECIAL HEARING

GENE FULLANO, et al

LOCATION: 5904 POINT PLEASANT ROAD
BALTIMORE COUNTY

CASE NO.: 86-274-SPH

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

SUBPOENA DUCES TECUM

MR. COMMISSIONER:

Please issue a Subpoena Duces Tecum for the following:

Vincent Klimas
Office of the Administrative Officer for Baltimore County
Department of the Handicapped
Mezzanine Court House
Towson, Maryland 21204

DUCES TECUM - To appear and bring any records, correspondence, contracts, deeds, and any other documentation concerning the location of 5904 Point Pleasant Road, 14th Election District, Baltimore County, Maryland, including but limited to any documents, contracts, deeds with Baltimore County or any other individual.

MAKE SAME RETURNABLE for Monday, January 20, 1986, at 10:15 a.m. before the Zoning Commissioner of Baltimore County, County Office Building, Towson, Maryland 21204.

TO TESTIFY FOR THE PETITIONERS:

Served: 1/15/86
FEE: 15.00
J. Edward Maloney, Sheriff

Mr. Sheriff:

Please issue Subpoena Duces Tecum in accordance with the above.

AJ/sz

RECEIVED
COUNTY BOARD OF APPEALS
MAY 25 P 2 12

IN THE MATTER OF THE PETITION FOR SPECIAL HEARING

GENE FULLANO, et al

LOCATION: 5904 POINT PLEASANT ROAD
BALTIMORE COUNTY

CASE NO.: 86-274-SPH

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

SUBPOENA DUCES TECUM

MR. COMMISSIONER:

Please issue a Subpoena Duces Tecum for the following:

Horace Burgee, Jr.
President
United Cerebral Palsy of Central Maryland, Inc.
3701 Old Court Road
Unit 12
Baltimore, Maryland 21208

DUCES TECUM - To appear and bring any records, correspondence, contracts, deeds, and any other documentation concerning the location of 5904 Point Pleasant Road, 14th Election District, Baltimore County, Maryland, including but limited to any documents, contracts, deeds with Baltimore County or any other individual.

MAKE SAME RETURNABLE for Monday, January 20, 1986, at 10:15 a.m. before the Zoning Commissioner of Baltimore County, County Office Building, Towson, Maryland 21204.

TO TESTIFY FOR THE PETITIONERS:

Served: 1/15/86
FEE: 15.00
J. Edward Maloney, Sheriff

Mr. Sheriff:

Please issue Subpoena Duces Tecum in accordance with the above.

AJ/sz

RECEIVED
COUNTY BOARD OF APPEALS
MAY 25 P 2 12

IN THE MATTER OF THE PETITION FOR SPECIAL HEARING

GENE FULLANO, et al

LOCATION: 5904 POINT PLEASANT ROAD
BALTIMORE COUNTY

CASE NO.: 86-274-SPH

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

SUBPOENA DUCES TECUM

MR. COMMISSIONER:

Please issue a Subpoena Duces Tecum for the following:

Debbie Helfeld
Residential Director
United Cerebral Palsy of Central Maryland, Inc.
3701 Old Court Road
Unit 12
Baltimore, Maryland 21208

DUCES TECUM - To appear and bring any records, correspondence, contracts, deeds, and any other documentation concerning the location of 5904 Point Pleasant Road, 14th Election District, Baltimore County, Maryland, including but limited to any documents, contracts, deeds with Baltimore County or any other individual.

MAKE SAME RETURNABLE for Monday, January 20, 1986, at 10:15 a.m. before the Zoning Commissioner of Baltimore County, County Office Building, Towson, Maryland 21204.

TO TESTIFY FOR THE PETITIONERS:

Served: 1/15/86
FEE: 15.00
J. Edward Maloney, Sheriff

Mr. Sheriff:

Please issue Subpoena Duces Tecum in accordance with the above.

AJ/sz

RECEIVED
COUNTY BOARD OF APPEALS
MAY 25 P 2 12

IN THE MATTER OF THE PETITION FOR SPECIAL HEARING

GENE FULLANO, et al

LOCATION: 5904 POINT PLEASANT ROAD
BALTIMORE COUNTY

CASE NO.: 86-274-SPH

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

SUBPOENA DUCES TECUM

MR. COMMISSIONER:

Please issue a Subpoena Duces Tecum for the following:

Debbie Helfeld
Residential Director
United Cerebral Palsy of Central Maryland, Inc.
3701 Old Court Road
Unit 12
Baltimore, Maryland 21208

DUCES TECUM - To appear and bring any records, correspondence, contracts, deeds, and any other documentation concerning the location of 5904 Point Pleasant Road, 14th Election District, Baltimore County, Maryland, including but limited to any documents, contracts, deeds with Baltimore County or any other individual.

MAKE SAME RETURNABLE for Monday, January 20, 1986, at 10:15 a.m. before the Zoning Commissioner of Baltimore County, County Office Building, Towson, Maryland 21204.

TO TESTIFY FOR THE PETITIONERS:

Served: 1/15/86
FEE: 15.00
J. Edward Maloney, Sheriff

Mr. Sheriff:

Please issue Subpoena Duces Tecum in accordance with the above.

AJ/sz

RECEIVED
COUNTY BOARD OF APPEALS
MAY 25 P 2 12

IN THE MATTER OF THE PETITION FOR SPECIAL HEARING

GENE FULLANO, et al

LOCATION: 5904 POINT PLEASANT ROAD
BALTIMORE COUNTY

CASE NO.: 86-274-SPH

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

SUBPOENA DUCES TECUM

MR. COMMISSIONER:

Please issue a Subpoena Duces Tecum for the following:

Debbie Helfeld
Residential Director
United Cerebral Palsy of Central Maryland, Inc.
3701 Old Court Road
Unit 12
Baltimore, Maryland 21208

DUCES TECUM - To appear and bring any records, correspondence, contracts, deeds, and any other documentation concerning the location of 5904 Point Pleasant Road, 14th Election District, Baltimore County, Maryland, including but limited to any documents, contracts, deeds with Baltimore County or any other individual.

MAKE SAME RETURNABLE for Monday, January 20, 1986, at 10:15 a.m. before the Zoning Commissioner of Baltimore County, County Office Building, Towson, Maryland 21204.

TO TESTIFY FOR THE PETITIONERS:

Served: 1/15/86
FEE: 15.00
J. Edward Maloney, Sheriff

Mr. Sheriff:

Please issue Subpoena Duces Tecum in accordance with the above.

AJ/sz

RECEIVED
COUNTY BOARD OF APPEALS
MAY 25 P 2 12

IN THE MATTER OF THE PETITION FOR SPECIAL HEARING

GENE FULLANO, et al

LOCATION: 5904 POINT PLEASANT ROAD
BALTIMORE COUNTY

CASE NO.: 86-274-SPH

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY

SUBPOENA DUCES TECUM

MR. COMMISSIONER:

Please issue a Subpoena Duces Tecum for the following:

Debbie Helfeld
Residential Director
United Cerebral Palsy of Central Maryland, Inc.
3701 Old Court Road
Unit 12
Baltimore, Maryland 21208

DUCES TECUM - To appear and bring any records, correspondence, contracts, deeds, and any other documentation concerning the location of 5904 Point Pleasant Road, 14th Election District, Baltimore County, Maryland, including but limited to any documents, contracts, deeds with Baltimore County or any other individual.

MAKE SAME RETURNABLE for Monday, January 20, 1986, at 10:15 a.m. before the Zoning Commissioner of Baltimore County, County Office Building, Towson, Maryland 21204.

TO TESTIFY FOR THE PETITIONERS:

Served: 1/15/86
FEE: 15.00
J. Edward Maloney, Sheriff

Mr. Sheriff:

Please issue Subpoena Duces Tecum in accordance with the above.

AJ/sz

RECEIVED
COUNTY BOARD OF APPEALS
MAY 25 P 2 12

DINENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DINENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
ROBERT A. BRESCHI

406 WEST PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204
(301) 276-6820

October 2, 1986

Chairman
County Board of Appeals
of Baltimore County
Room 200
Court House
Towson, Maryland 21204

RE: Case No.: 86-274-SPH
5904 Point Pleasant Road

Dear Mr. Chairman:

Enclosed herewith please find a Motion to Dismiss and accompanying order of Dismissal concerning the above-captioned matter.

Thank you for your cooperation in this matter. Upon execution of the Order of Dismissal, please forward a copy to all parties.

Very truly yours,

S. ERIC DINENNA

SED:kar

Enclosures

cc: Richard D. Gelfman, Esquire
Mr. Edward Trovato
Ms. Phillis Friedman

DINENNA, MANN & BRESCHI
ATTORNEYS AT LAW

S. ERIC DINENNA, P.A.
JAMES L. MANN, JR., P.A.
GEORGE A. BRESCHI, P.A.
ROBERT A. BRESCHI

406 WEST PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204
(301) 276-6820

September 23, 1985

Zoning Commissioner's Office
Office of Planning and
Zoning
County Office Building
Towson, Maryland 21204

RE: 5904 Point Pleasant Road
Special Hearing

Dear Mr. Commissioner:

Enclosed herewith please find the original and three copies of the Petition for Special Hearing, along with a check in the amount of \$35.00 representing the filing costs. It is my understanding that a plat and description is not necessary inasmuch as this is an interpretation request special hearing.

Very truly yours,

S. ERIC DINENNA

SED/neb

Enc.

cc: Mr. Gene Fullano
cc: Mr. Edward Trovato
cc: David M. Lyon, Esquire (with enclosure)

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204-2586
494-4500

PAUL H. REINGKE
CHIEF

November 20, 1985

Mr. Arnold Jablon
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Gene Fullano, et al

Location: 5904 Point Pleasant Road

Item No.: 137 Zoning Agenda: Meeting of October 22, 1985

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *[Signature]* Noted and Approved: *[Signature]*
Planning Group
Special Inspection Division

/mb

86-274-

1120

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

December 11, 1985

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

S. Eric Dinenna, Esquire
406 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Item No. 137 - Case No. 86-274-SPH
Petitioners - Gene Fullano, et al
Special Hearing Petition

Dear Mr. Dinenna:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above-referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

[Signature]
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:nr

Enclosures

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
494-3211

NORMAN E. GENDER
DIRECTOR

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

JANUARY 10, 1986

Re: Zoning Advisory Meeting of October 22, 1985
Item # 137
Property Owner: Gene Fullano, et al
Location: 5904 Point Pleasant Road

Dear Mr. Jablon:

The Division of Current Planning and Development has reviewed the subject petition and offers the following comments. The items checked below are applicable.

- (X) There are no site planning factors requiring comment.
- () A County Review Group Meeting is required.
- () A County Review Group Meeting was held and the minutes will be forwarded by the Bureau of Public Services.
- () This site is part of a larger tract; therefore it is defined as a subdivision. The plan must show the entire tract.
- () A record plat will be required and must be recorded prior to issuance of a building permit.
- () The access is not satisfactory.
- () The circulation on this site is not satisfactory.
- () The parking arrangement is not satisfactory.
- () This property contains soils which are defined as wetlands, and development on these soils is prohibited.
- () Construction in or alteration of the Floodplain is prohibited under the provisions of Section 22-89 of the Development Regulations.
- () Development of this site may constitute a potential conflict with the Baltimore County Master Plan.
- () The amended development plan was approved by the Planning Board on _____.
- () The proposed project must comply with Baltimore County Landmarks Panel.
- () The property is located in a deficient service area as defined by Bill 178-79. No building permit may be issued until a Reserve Capacity Use Certificate has been issued. The deficient service is _____.
- () The property is located in a traffic area controlled by a "T" level intersection as defined by Bill 178-79, and as conditions change are re-evaluated annually by the County Council. The Basic Services Area is _____.
- () Additional comments: _____

cc: James Howell

Eugene A. Sobor
Chief, Current Planning and Development

BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

STEPHEN E. COLLINS
DIRECTOR

November 15, 1985

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. -ZAC-
Property Owner: 137
Location: Gene Fullano, et al
Existing Zoning: 5904 Point Pleasant Road
Proposed Zoning: D.R. 5.5

Special Hearing to approve a community care center/group home in a D.R. 5.5 zone, located at 5904 Point Pleasant Road without benefit of the acquisition of Special Exception pursuant to Sec. 1801.1 C.6A and in conflict with Sec. 1801.1B of B.C. Z. R.

Acres:
District: 14th

Dear Mr. Jablon:

The Department of Traffic Engineering has not received a plan for this item.

[Signature]
Michael S. Flanagan

MSP/bld

1/20
86-274-SPH

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES
TOWSON, MARYLAND 21204
494-3610

TED ZALESKI, JR.
DIRECTOR

November 22, 1985

"NO PLANS"

Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item # 137 Zoning Advisory Committee Meeting are as follows:

Property Owner: Gene Fullano, et al
Location: 5904 Point Pleasant Road
District: 14th.

APPLICABLE ITEMS ARE CIRCLED:

- (X) All structures shall conform to the Baltimore County Building Code as adopted by Council Bill #17-85, the Maryland Code for the Handicapped and Aged (A.M.S.I. #17-1 - 1980) and other applicable Codes and Standards.
- B. A building and other miscellaneous permits shall be required before the start of any construction.
- C. Residential: Two sets of construction drawings are required to file a permit application. The seal of a Registered Professional Engineer or Architect is not required on plans and technical data.
- D. Commercial: Three sets of construction drawings sealed and signed by a registered Professional Engineer or Architect shall be required to file with a permit application. Approved seals are not acceptable.
- E. All One Group except B-1 Single Family Detached Dwellings require a minimum of 1 hour fire rating for exterior walls closer than 6'-0" to an interior lot line. All One Groups require a one hour wall if closer than 3'-0" to an interior lot line. Any wall built on an interior lot line shall require a fire or party wall. See Table 401, Section 401.1, Section 401.2 and Table 402. No openings are permitted in an exterior wall within 3'-0" of an interior lot line.
- F. The structure does not appear to comply with Table 505 for permissible height/area. Reply to the requested variance by this office cannot be considered until the necessary data pertaining to height/area and construction type is provided. See Table 401 and 505 and have your architect/engineer contact this department.
- G. The requested variance appears to conflict with Section(s) _____ of the Baltimore County Building Code.
- H. When filing for a required Change of Use/Occupancy Permit, an alteration permit application shall also be filed along with three sets of acceptable construction plans indicating how the existing structure is to be altered in order to comply with the Code requirements for the new use. Maryland Architectural or Engineer seals are usually required. The change of Use Group are from Use _____ to Use _____ or to Mixed Use. See Section 312 of the Building Code.
- I. The proposed project appears to be located in a Flood Plain, Flood Hazard. Please see the attached copy of Section 516.0 of the Building Code as adopted by Bill #17-85. Site plans shall show the correct elevations above sea level for the lot and the finished floor levels including basement.
- (X) Comments: Permits for Day Care Center usage in existing or new buildings so designed shall be the responsibility of the owner or a bonafide agent.

These abbreviated comments reflect only on the information provided by the drawings submitted to the Office of Planning and Zoning and are not intended to be construed as the full extent of any permit. To receive the applicant's full information, please visit Room 122 of the County Office Building at 111 W. Chesapeake Avenue, Towson, Maryland 21204.

[Signature]
C. E. Burman, Chief
Building Plans Section

L/22/85

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

86-274-SPH

District: 14th Date of Posting: 1/28/86
Posted for: Appeal
Petitioner: Gene Fullano, et al
Location of property: 5904 Point Pleasant Rd.
Location of Sign: Curbside, Point Pleasant Rd., across 12th Ex. roadway
Remarks: Re: Property of Fullano
Posted by: *[Signature]* Date of return: 1/14/86
Number of Signs: 1

86-274-SPH 14th District
5904 Point Pleasant Road
Gene Fullano, et al
1 SIGN

IN RE: PETITION FOR SPECIAL HEARING
5904 Point Pleasant Road - 14th Election District

BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY
Case No. 86-274-SPH

ORDER OF APPEAL

Mr. Commissioner:

Please enter an Appeal from your Findings of Fact and Conclusions of Law, concerning the above-captioned matter, dated February 7, 1986, to the County Board of Appeals for Baltimore County, on behalf of the following: Edward Trovato, 5909 Daybreak Terrace, Baltimore, Maryland 21206 and Frank Raspa, 5906 Point Pleasant Road, Baltimore, Maryland 21206;

It is respectfully requested that this matter be renamed in the BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 018462

DATE 1-10-86 ACCOUNT B-01-415-000
AMOUNT \$ 80.00
RECEIVED FROM S. E. DiNenna, Esquire

FOR: Appeal of Case No. 86-274 - Gene Fullano, et al

7 day of March, 1986, a copy is mailed, postage prepaid to Gelfman, Esquire, Oakland Ridge Professional Building, 9123 Old Annapolis Road (Route 108) Columbia, Maryland 21045;

Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 223, Court House, Towson, Maryland 21204.

S. ERIC D. NENNA

PETITION FOR SPECIAL HEARING
14th Election District
LOCATION: 5904 Point Pleasant Road

DATE AND TIME: Monday, January 20, 1986 at 10:15 a.m.
PUBLIC HEARING: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Special Hearing for a community care center/group home in a D.R. 5.5 zone.

Being the property of Gene Fullano, et al as shown on the plat filed with the Zoning Office.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF
ARNOLD JABLON
ZONING COMMISSIONER
OF BALTIMORE COUNTY

RE: THE MATTER OF THE PETITION FOR SPECIAL HEARING FOR 5904 POINT PLEASANT ROAD : BEFORE THE ZONING COMMISSIONER : OF BALTIMORE COUNTY : Case No. 137

ANSWER TO THE PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

United Cerebral Palsy of Central Maryland, Inc., by and through its attorney, Richard D. Gelfman and Gelfman, Gelfman and Lyon, P. A. in response to the Petition filed herein by GENE FULLANO and EDWARD TROVATTO, Petitioners, states as follows:

1. That United Cerebral Palsy of Central Maryland, Inc. (UCP) is a contract purchaser for the subject property and therefore should be included as an interested party in the above captioned matter.

2. That the use of the subject property does fall and shall continue to fall within the definition of a family as defined in the Baltimore County Zoning Regulation and therefore needs no special exception nor approval by this Commission.

Richard D. Gelfman
Gelfman, Gelfman & Lyon, P. A.
Oakland Ridge Professional Bldg.
9123 Old Annapolis Road (Rt 108)
Columbia, Maryland 21045
Telephone: (301) 995-1824
Attorney for United Cerebral Palsy

GELFMAN, GELFMAN & LYON, P.A.
OAKLAND RIDGE PROFESSIONAL BLDG.
9123 OLD ANNAPOLIS RD.
COLUMBIA, MD. 21045
995-1824

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that on this 29 day of October, 1985, a copy of the foregoing Answer to the Petition For Special Hearing, was mailed, postage prepaid to S. Eric DiNenna, Esquire, at 406 West Pennsylvania Avenue, Towson, Maryland 21204.

Richard D. Gelfman

GELFMAN, GELFMAN & LYON, P.A.
OAKLAND RIDGE PROFESSIONAL BLDG.
9123 OLD ANNAPOLIS RD.
CUM, MD
COLUMBIA, MD. 21045
995-1824

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
5904 Point Pleasant Rd., 14th District : OF BALTIMORE COUNTY
GENE FULLANO, et al, Petitioners : Case No. 86-274-SPH

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, Maryland 21204
474-2188

I HEREBY CERTIFY that on this 20th day of December, 1985, a copy of the foregoing Entry of Appearance was mailed to S. Eric DiNenna, Esquire, 406 W. Pennsylvania Ave., Towson, MD 21204, Attorney for Petitioners; and Dorothy Kucik, 5904 Point Pleasant Road, Baltimore, MD 21206, owner of subject property.

Peter Max Zimmerman
Peter Max Zimmerman

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

January 16, 1986

S. Eric DiNenna, Esquire
406 West Pennsylvania Avenue
Towson, Maryland 21204

Re: Petition for Special Hearing
5904 Point Pleasant Road
14th Election District
Gene Fullano - Petitioner
Case No. 86-274-SPH

Dear Mr. DiNenna:

This is to advise you that \$47.84 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

THIS FEE MUST BE PAID AND THE ZONING SIGN AND POST RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Do not remove sign from property from the time it is placed by this office until the day of the hearing.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 018469

DATE 1/14/86 ACCOUNT B-01-415-000
AMOUNT \$ 47.84

RECEIVED FROM S. E. DiNenna

FOR: Petition for Special Hearing - 86-274-SPH

VALIDATION OR SIGNATURE OF CASHIER