

Statements by COFAR President David J. Hart

April 7, Boston Statehouse

My name is David Hart and I am President of COFAR (Coalition of Families and Advocates). We are here to advocate on behalf of all citizens of the Commonwealth of Massachusetts that have Developmental Disabilities. We are also here to protest the decision and announcement of Governor Deval Patrick on December 12, 2008 to close and evict the residents from 4 of the 6 ICF/MR Developmental Centers, (Fernald, Glavin, Monson, and Templeton). The other 2 Developmental Centers will be determined at a later date, (Hogan in 4 years and Wrentham “indefinitely” or when the last resident dies).



I am also here as a family member. My brother Chris (who was profoundly retarded and extremely medically fragile) lived at Hogan Developmental Center for the last 25 years of his life. These were the best years of his life along with being the most medically difficult years. The care at Hogan along with all of the other Developmental Centers is the best the state has to offer. Based on the services that were being provided and services now being provided in the community, there was no way my brother would have lived as long and as well as he did at Hogan.

In a few minutes you will hear from veteran Representative Angelo Scaccia, and old and good friend to all people with disabilities, whose career spans the many changes in the field of mental disability. And from Representative Karyn Polito, whose Shrewsbury-Westborough district includes the Irving Glavin regional center. And from Dr. Al Bacotti, the former director of Glavin, and the highest ranking former DMR official and mental retardation professional in Massachusetts to break ranks with the Governor’s “One Size Fits All” policy. You will hear from Templeton parent Bonnie Valade. And if we have time at the end, I will return to describe how the Governor’s plan to close the four facilities actually increases state spending in this crisis, wasting dwindling revenue that is needed to maintain services elsewhere in the DMR/DDS system

As stated before, COFAR is here today to advocate for all 33,000-plus clients of the Department of Developmental Services and for those with disabilities who are not yet clients of the DDS. COFAR supports CHOICE with regards to residential settings. Not only do we support keeping all of the Developmental Centers open, but we support the State Operated Group Home System, the Vendor Operated Group Home System, those who are living at home with family, and those who are in independent living situations. **ONE SIZE DOES NOT FIT ALL!!!**

Today, COFAR is here to dispel some myths, inaccuracies and outright lies along with advocating for choice and change within the DDS system.

- 1. The Executive Director of another advocacy groups recently made a statement that said “keeping people in facilities was a violation of their civil rights”. Judge Tauro a Federal First Circuit Judge has presided over the Ricci v. Okin case for over 25 years never found that being a resident of one of the 6 Development Centers was a “violation of their civil rights.” If anyone should know a violation of civil rights it would be a Federal Judge.**

2. **The spirit of the Olmstead decision from the Supreme Court of the United States is that it does not favor one style of living over another. In fact, the Olmsted decision equally supports both ICF/MR (Developmental Center) and community living situations. Here is a quote from the plurality opinion: Olmstead v, L.C, 119 S. Ct. 2176, 2187(1999): “We emphasize that nothing in the ADA or its implementing regulations condones termination of institutional settings for persons unable to handle or benefit from community settings Nor is there any federal requirement that community-based treatment be imposed on patients who do not desire it.”**
3. **During these very difficult economic times when many citizens are facing foreclosure unemployment and overall uncertainty in their lives -- why is it necessary to evict from their homes of many years our most vulnerable population of citizens?**
4. **Closing the 4 of the 6 Developmental Centers in the next 4 years will not save the taxpayers of the commonwealth any money. In fact it will cost the taxpayers more for the next four years, and probably ever after.**
5. **In March, the Executive Director of the Disabled Persons Protection Commission (DPPC) due to previous budget cuts and anticipation of future cuts stopped the perspective employee background check service being provided to the community vendors. The DPPC responded to over 15,000 background check requests per year. COFAR finds this very distressing especially at this time due to the Governor’s “Community First Initiative.” In a March 6, 2006 report, First Circuit US Attorney Michael Sullivan told Federal Judge Tauro that there is a greater chance of abuse and neglect in the community systems for those with developmental disabilities. The provider system would like to do better, as we can see from those 15,000 requests for extra background checks. And the legislature can help them with about \$175,000 to maintain present staffing levels.**

In fact, the DPPC website states, more than 90% of people with developmental disabilities will be abused and neglected in their lifetimes and of those almost 50% will be abused and neglected at least 10 times in their lifetimes. DPPC has a backlog of cases of 750 and cannot currently meet its mandated 35% of cases to be investigated. DPPC currently is investigating only 5-10 % of the cases being referred to them. Lastly, DPPC is looking at a 15% budget cut for FY10. This means that DPPC will have to lay off 11 employees. With all of these cuts is now the time to be burdening the unsupervised community residential system by closing, evicting and moving people with developmental disabilities many of whom cannot communicate or protect themselves into a significantly more dangerous situation??? Now is the time to step back and re-access our priorities.

In wrapping up, I would like to stress two things:

1. **Our opponents in the Governor’s office, the Department of Developmental Services, and the leadership of ARC Mass and its many affiliated organizations like to think of themselves as**

reformers, as caring people, and as honest public servants. Sometimes they are, and sometimes – as they give each other awards for carrying out reforms ordered by the courts – they aren't.

Here is what we know about their service to Anna Tross, who died last month at the age of 92. Miss Tross had been at the Fernald Center for about fifty years, she had a right to equal or better treatment in any transfer. When Anna's sister became too old to care for Anna's affairs in the late 1990s, Miss Tross acquired a corporate guardian, the Greater Boston ARC, now changing its name to ArcGB. Despite an ARC national position that all large facilities should be closed, Miss Tross and other wards of the ARC remained at Fernald because their guardianship workers knew that they considered it home, and were well treated there. Miss Tross in particular was known as a "feisty person" who defended her personal space at Fernald.

In the Fall of 2007, when Fernald transfers were opened up again by Judge Tauro, the word came down, and ArcGB was told to transfer all of their wards out of Fernald to state operated group homes. The guardianship worker for Miss Tross refused to go along with this plan, because she knew that Miss Tross and the others did not want to move, and that Fernald was the best place for them.

So that worker was stripped of her caseload, and an army of experts began to woo Miss Tross to the idea of the transfer. If you ask them, these expensive experts will say that this is the correct protocol for moving elderly people with developmental disabilities. The real experts – her Fernald social worker, other workers there who knew her for decades – were taken off the case, disciplined for talking to her about her options, refused access to her still-living sister.

And once Miss Tross was successfully carried off in the Van to her new group home, no one who knew her at Fernald was allowed to speak to her. By all accounts, she liked having visitors at Fernald. We will never know if her last months at the Bedford group home were pleasant or not. We *may* never know whether it cost more to move her and keep her there than to let her live out her days at the Fernald Center.

We will always know that the ArcGB guardianship worker who spent so many hours arranging the transfer of Anna Tross and forbidding any contact from old friends and workers – could not under oath in federal court describe Miss Tross's medical condition or what medications she needed.

And we will always know that Anna Tross, our fellow citizen, was deprived of her civil rights in her 92nd year to make a political point about the declining population of Fernald for Governor Deval Patrick, the officials of the DMR soon to be DDS, and the ARC of Massachusetts. If she had a family guardian, she would never have moved. If the people paid \$50 an hour for 20 hours year to be her guardians had a shred of decency and honor, she would never have moved. At her age and with her known opinions, Anna Tross should have been the last person transferred out of Fernald.

2. Now I would like to show you a picture. It has been quite difficult to track the \$45 million in new spending that the state has committed to in order to close four of the finest comprehensive treatment centers we have for Developmental Disability in Massachusetts. In December, the Governor's Department of Capital Asset Management put out an RFP for up to 21 new group homes, clearly described as intended for people moving out of developmental centers, with perhaps some places for

people moving out of nursing homes under the settlement of Rolland vs. Cellucci. Based on what we know about the building and financing of homes like the one in Bedford where Anna Tross disappeared from all who knew her, and the four next to the Glavin Center that were under the direction of Dr. Bacotti, we are required to introduce the terms:

"Sweetheart deals," "provider bailouts," and "fiscal shell games."



The picture is of a mansion in Jamaica Plain, one of the hottest real estate markets in Boston. It was purchased last month by the Vinfen Corporation, a \$90 million provider for several Massachusetts human services agencies, as of Fiscal 2007. Vinfen will develop this nearly-4000 square foot home as a group home. We cannot be absolutely certain that this is part of the investment to close the developmental centers, but since that is one of the few expansions of residential services in the entire budget, it is an excellent bet. If this building is not actually in the deal, it is typical of how the deal will work.

Vinfen paid \$900,000 for this property. It's a bit of a fixer upper, and will need ramps and elevators to be used as a group home for people coming out of Fernald. **(Only non-ambulatory people will be safe here, because as you can see in this other picture, this house is on The Jamaicaway, a very busy, twisty four-lane highway where able-bodied pedestrians are killed every few years. One picture is of a light pole across the street, recently knocked down by an errant motorist.)**



But don't worry about Vinfen Corporation, or its CEO, who was paid 395,587 including benefits in FY2007. If they get the same deal Cil Realty used to build the Bedford home, the state will get them financing at a very good rate for low-income housing. Then the state will lease back the home for 20 years, guaranteeing a handsome profit for this "non-profit" provider. At the end of 20 years, the Vinfen Corporation will be able to strike a new lease, all gravy; operate the group home itself; or be forced to sell it as residential housing again. Again, 100% gravy, non-profit profit guaranteed.

Back when the RFP was written, we described this as a “shell game” because the state was pretending to save money by closing the developmental centers and moving the people to group homes, when in fact it was shifting costs onto capital budgets, using taxpayer funds to finance the deals.

But since then, we have all learned a lot. We have learned that this is not a “stimulus” keeping up the high price of housing in Boston. **This is a “sweetheart” deal with a favored non-profit provider in what the Commissioner of DDS admitted to COFAR 18 months ago is a “provider-driven system.” This is a “bailout” for a favored provider at a time of budget cuts in human services.**

If Governor Patrick steered favorable financing and a guaranteed state lease to a private for-profit company with a 395,587 CEO – the newspapers and TV stations would be all over it. He might be impeached. Instead, the same basic insider deal minus the campaign contributions is presented to us as an “investment.”

But as a non-profit provider, Vinfen can’t make campaign contributions. But they could, and did, donate more than \$5600 to ArcMass and allied organizations in FY2007. Again, we don’t know if those funds were designated for a purpose -- and the ARC does many things we endorse -- **or whether it was unrestricted funds, and could be used directly for the ARC’s campaign to close the developmental centers two generations of family members have worked so hard to reform and build up into the finest comprehensive treatment centers for mental retardation the state has ever had.**