

Queens Civic Congress

Testimony on Community Facilities to the City Council

September 17, 2002

My name is Sean M. Walsh and I will be presenting testimony today on behalf of the Queens Civic Congress, an umbrella organization of over one hundred civic and community associations in the borough of Queens. The Congress has over the last six years taken a number of positions on land use issues as they affect the entire borough of Queens and the city as a whole. [See our platform at our web site: www.queensciviccongress.org]

Today, I would like to highlight a few of the most pressing problems facing your constituents. Code enforcement compliance with the Zoning Resolution and the Building Code are critical to the success of any of the subjects we will discuss today; we, however, will leave the Buildings Department for another day.

Community Facilities, a concept created in the late 1930s when the present day 1961 Zoning Resolution was beginning drafted. The idea was that certain activities normally associated with high density and commercial zones should be given an exemption to “as of right” locate in lower density zones because they provided a community service. Doctors, fraternal halls, religious institutions, medical facilities, schools are a few examples of community facilities allowed in low density residential zones. These facilities are also allowed a bulk bonus thereby permitting a larger structure than the surrounding zone would normally permit. Certain types of community facilities, drug treatment clinics or free needle clinics, can be detrimental even in high density residential zones if they are allowed to site themselves as of right regardless of whether there is a school on the same block.

No one questions the value or the right of these institutions to serve the public. No one questions the need to provide reasonable and accessible sites for these institutions. It is clear, however, that the types of structures and their placement we see today were never envisioned during the drafting the 1961 Zoning Resolution. Today, homeowners, small building landowners, and even large coop face *de facto* condemnation when these “community facilities” move in next door. The community doctor who made house calls in 1959 lived and worked out of a house or apartment in our neighborhoods. Now, we have a commercial MRI clinic in the middle of a one or two family home street.

We ask that the Council and the City Planning Commission revisit the concept of community facility as it applies in the real world of the twenty-first century. We look forward to working with you on this important and pressing issue.

Deed restrictions, much of New York City and in particular large parts of Queens were developed as planned communities. A developer would use restrictive deed covenants in the parcels he sold to ensure that the community would maintain its character and look. The city has in effect recognized many of these planned communities through historic land marking designations. Many other communities have maintained their character through land owner associations which have files lawsuits to enforce these deed restrictions.

Today, unscrupulous speculators try to break legitimate deed restrictions in order to block bust a community. Councilman Avella has proposed legislation would require the city to defend legally recognized real property deed restrictive covenants when they are being violated. We strongly support this legislative initiative. Community association after association has gone to court expending \$100,000 or more to defend a legally binding restrictive land covenant and win in court only to learn that another developer will come in and the violate the same covenant. It has become quite clear that unscrupulous land speculators are trying to drive land owner and civic groups in to a financial bankruptcy to prevent them from enforcing their legal rights. We endorse Mr Avella's initiative which will protect the legal rights of communities and preserve the planned communities which give New York its character. This would bring non historic designated communities under the same legal protection historic districts now posses.

There are many other land use issues on which the Congress has taken a position: A new row house zone to accommodate the city's row houses. The affect of R-10 zone in western Queens. The front and side yard requirements of R-1 through R-4. The ULURP trigger level for community review for franchises. The amendment of the Zoning Resolution to modify the ruling by the Court Appeals in the *Raritan* case which the city lost on the questions of the basement in R-3 zones.

We look forward to working with you on these and many more issues in the coming year, thank you.