

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

Resolution or Ordinance (Blue) _____ *Waiver of First Requested*
X Recommendations of Boards, Commissions & Committees (Green)
Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: February 23, 2004 (B of T) Date: March 4, 2004

TITLE: Home Day Care Regulations

SUBMITTED BY: Department of Community Development *ggl*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration a request for a motion authorizing the Village President to sign a petition to support amendments to the Child Care Act of 1969.
(ALL DISTRICTS)

Please place this item on the March 4, 2004 Board of Trustees agenda.

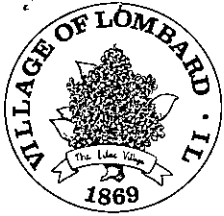
Staff recommends support of this request.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X *William T. Lichter* _____ Date 2/24/04

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



MEMORANDUM

TO: William T. Lichter, Village Manager

FROM: David A. Hulseberg, AICP, Director of Community Development *DGH*

DATE: March 4, 2004

SUBJECT: Home Day Care Regulations

Staff presented a request and recommendation from the Village of Homewood seeking support of legislative changes to the Child Care Act of 1969 to the Plan Commission at the February 16, 2004 Plan Commission meeting. In consideration of their request, the Plan Commission recommended that the Village Board make a motion supporting an amendment to the Child Care Act of 1969 to require that home day care facilities be required to comply with local building, zoning and life safety codes.

BACKGROUND

Staff received the attached correspondence from the Village of Homewood relative to their efforts to modify home day care regulations for non-home rule municipalities like the Village of Lombard. This action is being pursued in light of the State Supreme Court decision in Hawthorne v. Olympia Fields that restricts non-home rule municipalities from regulating day care homes. This ruling is far-reaching as it takes away any regulatory authority from 148 non-home rule municipalities in the Chicago area and places sole discretion and approval authority to the Department of Children and Family Services (DCFS).

From the municipal perspective, this decision poses significant land use implications. For example, should an operator apply for and receive a DCFS license, the Village of Lombard would be unable to consider the impacts of the facility on the adjacent properties and the neighborhood. Other local development issues such as emergency access, building design and safety would not apply to the homes either. From a planning standpoint, ancillary issues such as locations of outdoor play areas, parking, drop-off, pick-up activities and perhaps even signage could not be regulated.

Staff concurs with the recommendations of the Village of Homewood on this matter to support legislation to amend the Child Day Care Act of 1969 to permit non-home rule municipalities to have regulatory authority over such facilities as well. Just as important, staff also believes this issue is critical as the Village should have enforcement tools available in the event that such a facility operates in a manner inconsistent with the Village's regulations.

RECOMMENDATION

Staff requests that this item be placed on the March 4, 2004 Village Board agenda. Staff recommends that the Village Board concur with the recommendation of the Plan Commission and approve a motion authorizing the Village President to sign Homewood's petition to support amendments to the Child Care Act of 1969 requiring compliance with local building, zoning and life safety codes for home day care facilities.

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Village of Homewood

2020 CHESTNUT ROAD
HOMEWOOD, ILLINOIS 60430-1776
708-798-3000

Dear Fellow Non-Home Rule Community:

The Illinois Supreme Court in a recent decision (Hawthorne v. Olympia Fields) ruled that NON-HOME RULE MUNICIPALITIES CANNOT REGULATE DAY CARE HOMES.

This decision is particularly concerning to non-home rule municipalities as we are charged with the duty to uphold and enforce zoning, building, and life safety codes for the health, safety, and welfare of the community, the same as home rule communities. While we recognize many day care homes are operated with minimum impact to residential neighborhoods *there are still health, safety, and public welfare issues associated with day care homes*. Such issues include:

- * Location and proximity of day care homes to busy streets,
- * Occupancy capacity and structural safety in day care homes,
- * Emergency response access to day care homes,
- * Other potentially incompatible uses in surrounding area,
- * Number of employees and availability of parking for employees and patrons of day care homes, and
- * Availability of outdoor play area and/or screening of outdoor play areas.

While we do believe that DCFS is capable of licensing day care homes, we are, however, concerned that they may have limited knowledge of local conditions. **These are issues that local zoning, building, police, and fire officials have intimate knowledge of.**

The dissenting opinion in Hawthorne v. Olympia Fields best articulates the impact to non-home rule municipalities. Justice Garman states in dissent, *"So long as the proposed operator has completed the requisite licensing requirements, he or she could operate a day-care home at the corner of the busiest intersection in town and the municipality and neighboring residents could do nothing about it...Today's holding threatens the ability of a non-home rule municipality to exercise any measure of control over the location of a state-regulated business within its own boundaries and, therefore, the ability to preserve the integrity of its residential neighborhoods from potentially incompatible uses."*

As the Illinois Supreme Court has rendered its decision, even with strong dissent, the only recourse for non-home rule municipalities is to lobby our state legislators to change the law. In order to protect the integrity of non-home rule communities, the Village of Homewood proposes the following amendment to the Child Day Care Act of 1969:

"Documentation of compliance with all applicable local zoning, building, and life safety codes or their equivalent ordinances must be provided to DCFS prior to their issuance of a license for a day care home."


The Village of Homewood respectfully requests your support in a lobbying effort to amend the Child Day Care Act of 1969. If your Village is interested in protecting the integrity of residential districts, zoning ordinances, and building and life safety codes please join this effort. Additional information is available on our website at www.homesweethomewood.com or please feel free to contact us to further discuss this effort.



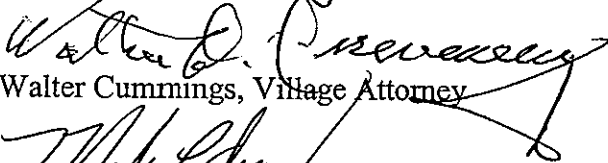
To show your support, please sign and return the attached position statement that will serve as a petition, in the self-addressed, stamped envelope by February 27, 2004.

The Village of Homewood is also seeking the support of the Illinois American Planning Association (ILAPA), the Illinois Municipal League (IML), the Illinois Council of Code Administrators (ICCA), Illinois Fire Chiefs Association, Illinois Association of Chiefs of Police, the South Suburban Mayors and Managers Association (SSMMA), and our local state legislators. If you know of or are involved in any other association interested in this effort please contact us.

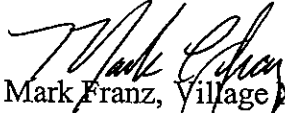
Sincerely,



Richard A. Hofeld, Village President



Walter Cummings, Village Attorney



Mark Franz, Village Manager, 708-206-3376
mfranz@homesweethomewood.com



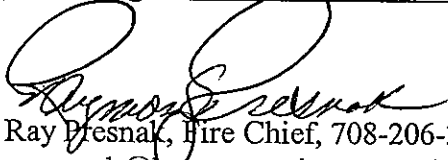
Bill Ernat, Director of Community Development, 708-206-3387
bernat@homesweethomewood.com



Beth Barron, Planner, 708-206-3386
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Jerry Maicach, Building Inspector, 708-206-3388
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Ray Presnak, Fire Chief, 708-206-3402
rpresnak@homesweethomewood.com



Larry Burnson, Chief of Police, 708-206-3460
lburnson@homesweethomewood.com

POSITION STATEMENT

The Village/City of _____, hereby supports the following amendment to the Child Day Care Act of 1969 in order to strengthen the regulatory functions of non-home rule municipalities for the purpose of protecting the health, safety, and welfare of non-home rule communities as related to the regulation of day care homes:

“Documentation of compliance with all applicable local zoning, building, and life safety codes or their equivalent ordinances must be provided to DCFS prior to their issuance of a license for a day care home.”

(signed name)

(printed name)

(title)

(date)

(phone number)

(email, if available)