

May 7, 2007

Q&A: Lawyers for Elderly, Disabled Explain Their Laguna Honda Fight

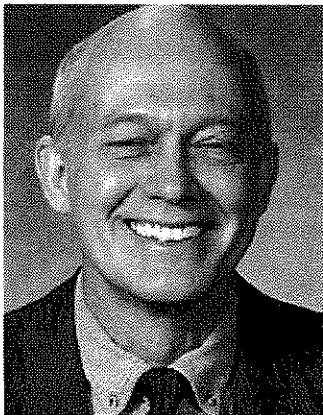
May 7, 2007

The Wall Street Journal asked two lawyers who have devoted years to challenging the rebuilding of San Francisco's Laguna Honda, one of the biggest and oldest public nursing homes in the country, to explain their opposition. Bruce Vignery is with AARP, the Washington-based non-profit advocacy group for the elderly, and Elissa Gershon is with Protection & Advocacy Inc., an Oakland, Calif., nonprofit advocating for people with disabilities.

The two have been co-counsel in two lawsuits filed on behalf of Laguna Honda residents against San Francisco; one of the suits also names the state as a defendant. They spoke separately with Wall Street Journal reporter Lucette Lagnado. (See related article.¹)

* * *

WSJ: Why should the country care about a building in San Francisco? What is really at stake here?



Bruce Vignery


Mr. Vignery: This is really about consumer choice in long-term care; it is about respect and dignity for people who need long-term care and don't want to be in an institution -- they want to get their care at home. That should be the model everywhere. It would be bad if other jurisdictions followed San Francisco's lead.

Ms. Gershon: I think what is happening in San Francisco is representative of what is happening all around the country. Baby boomers want to have choice, whether or not they have a disability. The problem is that people don't always have the choice to live in the community instead of an institution.

WSJ: You have both used strong words to describe the Laguna Honda rebuild -- one of you -- Mr. Vignery -- has called it a "folly," while Ms. Gershon has referred to it as a "black hole" that marks the "ghettoization" of the disabled. I wonder why you have both fought so passionately against it.

Mr. Vignery: AARP has done study after study that shows people simply do not want to go into nursing homes; they prefer to remain at home, to get the services at home, and people have voted with their feet by opting into assisted living. Nursing home occupancy rates have gone down

DOW JONES REPRINTS

 This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers, use the Order Reprints tool at the bottom of any article or visit: www.djreprints.com.

- See a sample reprint in PDF format.
- Order a reprint of this article now.

though they were projected to go up ... that is why we are very interested in this case.

I think that building a facility that large that will last for decades is a monument to bad policy.

Ms. Gershon: I have been a disability advocate my entire legal career - I have worked to help people get out of institutions. I have seen the difference in quality of life that people have when they can live in a way that is more dignified and gives them more independence and privacy and choice.



Elissa Gershon

We have been working on this Laguna Honda issue for going on eight years, and San Francisco has continued to move in a direction where it is prioritizing institution care instead of community care. In terms of calling it "ghettoization": A new institution will continue to isolate and segregate people with disabilities for generations to come.

WSJ: San Francisco enjoys an image as a progressive and very cutting-edge city. Yet in the words of Dr. Bill Thomas, a national leader of the movement to re-invent long-term institutional care, rebuilding Laguna Honda is like "building a buggy-whip factory in 1920." What happened in San Francisco?

Mr. Vignery: Everybody wonders that. I think people's first reaction -- people who are knowledgeable about long-term care -- is "What are they doing? Why are they rebuilding a facility that nobody really wants?" I don't really have an answer as to why they're doing this.

Ms. Gershon: God, if I know ... Laguna Honda has historically been the icon of San Francisco's commitment to its most vulnerable people. What has happened is that this benevolent purpose has lost its focus. In the 1990s, it was under investigation for egregious conditions. Rather than rethink its long-term care system, it was in some ways easier to rebuild.

WSJ: San Francisco says it needs the nursing home beds -- that there is no way around that -- hence the need to rebuild Laguna Honda.

Mr. Vignery: They may need some nursing home beds. There have been assessments done of the people in Laguna Honda, and well over 50% could be served in the community if there were services available. They don't have a need for a 1,200-bed facility.

Ms. Gershon: They are not looking at the array of viable alternatives they could provide to people, some of which are already operating and some of which could be made available in San Francisco.

WSJ: Both city and state officials assert that San Francisco and California are very progressive when it comes to keeping people at home. California is acknowledged even by AARP to have one of the leading home-care programs in America; San Francisco, in asserting its need for skilled nursing beds, says it has a relatively low number of nursing home beds and is more progressive by that crucial measure than many parts of the country. They suggest that they are getting a bum rap, effectively. Your reaction?

Mr. Vignery: The case isn't about the number of skilled nursing beds a city needs, although I would point out that skilled care can be provided anywhere and not just in a huge institution. It's

about violations of people's rights to exercise their choice. Most of the current residents at Laguna Honda have been found by the city itself as not needing to be in a nursing home. Instead the city has made the choice and said to its [poorer] residents: If you need long-term care, many if not most of you must come live in this institution.

Ms. Gershon: While it's true that both the state and San Francisco have a wide array of community-based programs and services, many people with disabilities are unnecessarily institutionalized because of a failure to adequately fund and provide access to them.

WSJ: **Your legal strategy was never simply to stop the construction. Now, the building is almost a fact on the ground -- whether it has 780 beds or the full 1,200, there will still be a massive nursing home -- and I wonder, if each of you had to do it over, would you pursue a different strategy? Why not simply try to stop it?**

Mr. Vignery: We have made a lot of progress -- we have established that well over half the people don't need to be at Laguna Honda. If they have a big, empty, vacant new building, so be it.

Ms. Gershon: Whether San Francisco chooses to build a new Laguna Honda and provide adequate services is their decision. What they can't do is force people to live in Laguna Honda simply because they built it. Since our lawsuit seven years ago, we have created a system of assessments, and based on these assessments, we have confirmed that most people don't want or need to be there.

WSJ: **Supporters point to the great improvements of the new Laguna Honda over the old Laguna Honda -- no more open wards, semi-private rooms instead, situated in 15-person households, flat-screen TVs, Internet access for every patient, two therapeutic swimming pools. Why object or challenge a facility that appears to be a clear improvement over the old institution?**

Mr. Vignery: Clearly, more privacy is good, but it is like putting bells and whistles on a horse and buggy -- people don't want to buy it even if it is fancied up. They want their services at home: They would rather have an attendant come in and help them dress and bathe than look at an HDTV in an institution.

Ms. Gershon: Why should you have to live in an institution to get Internet, TV and swimming? These are readily available to those of us who don't live in an institution, and for the amount of money San Francisco is spending on a new, improved Laguna Honda it could fund adequate housing and services for many more people. Fancy accessories are no guarantee of quality care, which is what people with disabilities and their families want, finally.

URL for this article:

<http://online.wsj.com/article/SB117820951674991030.html>

Hyperlinks in this Article:

(1) <http://online.wsj.com/article/SB117830578708292504.html>

Copyright 2007 Dow Jones & Company, Inc. All Rights Reserved

This copy is for your personal, non-commercial use only. Distribution and use of this material are governed by our **Subscriber Agreement** and by copyright law. For non-personal use or to order multiple copies, please contact Dow Jones Reprints at 1-800-843-0008 or visit www.djreprints.com.