

The Public Advocate

Top Priorities, 2007

The Public Advocate has identified several top priorities for 2007:

- Reforming Eminent Domain
- Giving Students Quality Special Education
- Ensuring Safety, Supports For People With Disabilities, Mental Illness
- Protecting Voters' Rights
- Expanding Mental Health Coverage
- Preventing Childhood Lead Poisoning
- Resolving Conflicts Without Litigation
- Expanding Tax Credits for Working Families
- Helping Seniors Age With Dignity
- Guarding the Interests of Utility Ratepayers

Reforming Eminent Domain

In recent years, it has become clear that the public practice of taking people's property for private redevelopment has raised serious concerns.

Under the current law, homes have been deemed "blighted" for little more than chipping paint, uncut grass or other superficial deficiencies.

People have lost their homes without ever receiving adequate notice or a real chance to defend their rights in court. And a lack of transparency has fueled public doubts about the fairness of the redevelopment process.

Because of these serious problems, the Public Advocate made eminent domain one of its top public policy priorities during its first year of operation. That focus will continue through 2007.

The Public Advocate seeks to:

⇒ Limit eminent domain for private redevelopment to truly blighted areas, as the state Constitution requires.

⇒ Make the process fair and transparent so people receive adequate notice and have a meaningful opportunity to defend their rights in court.

⇒ Provide adequate compensation so a family that loses a home can afford to replace it with a comparable one in the same community.

Recognizing that redevelopment is vital for the state's economic future, the Public Advocate believes these reforms are critical to prevent abuses and allow good redevelopment projects to move forward with full public support.

One of the department's top legislative priorities, therefore, is to ensure that A-3257 becomes the law in New Jersey. Sponsored by Assemblyman John Burzichelli, who is also a mayor, this measure would tighten the definition of blight, provide homeowners with a meaningful opportunity to contest the taking of their homes and provide adequate compensation when homes are taken.

The bill was the product of negotiations between the League of Municipalities and the Public Advocate.

On the legal front, the Public Advocate will continue to engage in court cases involving eminent domain.

The Advocate filed amicus briefs in cases involving projects in Lodi, Long Branch and Paulsboro. The department presented oral argument in the Lodi case and expects to do the same in the Long Branch and Paulsboro cases. The Paulsboro case is before the Supreme Court, while the other two cases are before the Appellate Division.

Giving Students Quality Special Education

After fielding hundreds of calls from parents concerned about their children's special education program, the Public Advocate made the interests of students with special education needs a top priority for 2007.

For 17 years, New Jersey had operated under the appropriate policy that when a family challenges the school's plan for a child with special needs, the school should prove it is providing an effective education for the child. But federal court rulings in 2005 and 2006 changed that, placing the responsibility on the person who challenges the plan.

New Jersey's longstanding policy was not codified into law and so the federal rulings shifted this practice, weakening parents' ability to advocate for their children. Low-income parents of children with special needs are at a particular disadvantage because they cannot afford to hire lawyers to argue their case.

The department closely studied this issue and in February 2007 released a report critical of the shift in law.

In the report, the Public Advocate argued that it is unfair to place the burden of proof on families because they lack access to information that could help prove their claims.

School districts are in a far better position to prove an education plan is appropriate because they gather detailed information when preparing plans and have greater access to educational experts and legal counsel, the Advocate argued

In response to the Advocate's report, Assembly members Joseph Cryan, D-Union, Joan Voss, D-Bergen and David Wolfe, R-Monmouth, and Senators Steven Sweeney, D-Gloucester and Joseph Doria, D-Hudson, introduced legislation to require school districts to prove they are providing an appropriate education when a student's plan is challenged.

The Public Advocate supports this legislation.

Ensuring Safety, Supports for People with Disabilities, Mental Illness

New Jersey is failing to meet its legal obligation to individuals who want to move from institutions to community settings. Only Louisiana and Mississippi have a higher rate of institutionalizing people with developmental disabilities.

Half of the more than 3,000 people with developmental disabilities who live in state-run institutions have been identified as able and willing to move into community settings.

Another 1,000 people in crowded state psychiatric hospitals have been deemed ready to leave the hospital, if proper community placements and support were available.

State law requires the Department of Human Services to produce a plan by May 5, 2007 for how it will move 1,500 people with developmental disabilities from institutions into the community.

The Public Advocate will be actively involved in influencing the shape of that plan to ensure that appropriate community supports and services are created first.

In addition, the Advocate will work to ensure people with mental illness also receive the right services and supports.

Some key changes the Advocate will advance include:

- Conduct accurate assessments of individuals residing in developmental centers and psychiatric hospitals.
- Create a statewide database of people eligible for disability services.
- Invest in services to support community living and prevent unnecessary institutionalization.
- Develop transitional services to ensure safe, smooth transitions to community living.
- Ensure that people in developmental centers, psychiatric hospitals, other residential programs and state-funded day programs receive safe, appropriate services.
- Expand family support programs.

Protecting Voters' Rights

The right to vote is one of the most basic and fundamental rights of every U.S. citizen. That right must be fiercely guarded. But when doors are too narrow or no ramps are available to accommodate wheelchairs, many New Jersey residents are denied that right.

Still others are denied this right when they are unconstitutionally turned away because of developmentally disabilities, never offered the opportunity to register or unaware of their voting rights. Public confidence in the integrity of the election system is essential.

The Public Advocate will deploy a multi-pronged approach to address these problems in 2007.

Poll Accessibility. In 2007, the Public Advocate will release a report that examines progress made and challenges still ahead to ensure that every polling place in the state is accessible to all who seek to use it. We will also work with state election officials to ensure that the

Voter Bill of Rights contains accurate and comprehensive information for voters on their recourse should they be denied the right to vote and mechanisms for distributing these materials to the general public.

Voter Registration. In addition to poll access, it became clear through the department's research and outreach that significant problems exist concerning New Jersey's compliance with the National Voter Registration Act. One provision of that Act requires motor vehicle agencies to give people the opportunity to register to vote whenever they obtain, renew or update their drivers' licenses. This commonly fails to happen.

The department initiated discussions with the Motor Vehicles Commission to negotiate a joint plan for compliance. Those discussions are ongoing.

Voting Machines. The Public Advocate believes that every voting system in the state must be subject to a state-level certification process that includes rigorous testing that simulates election-day conditions. The department will work with the Attorney General to ensure that machines are adequately tested and that all voters have confidence in New Jersey's voting system.

Expanding Mental Health Coverage

People with mental illness often face discrimination, both from the public and from the systems that are supposed to help them. The Public Advocate will work hard this year to ensure people with mental illness no longer face discrimination in the health insurance coverage they receive.

In 1999, New Jersey enacted a limited mental health parity law that requires insurers that provide coverage for biologically-based mental illnesses to offer coverage that is equal to a plan's physical health benefits.

The law, however, exempts a host of illnesses, such as addictions, eating disorders and other conditions that may not be recognized as biologically based. This leaves a huge gap in coverage for thousands of New Jerseyans who struggle with these disorders.

The two bills now in the Legislature, S-807 and A-2512, would change that. These mental health parity bills would require health plans that offer mental health coverage to offer benefits equal to those provided for physical health. The measure has passed the Senate but remains under review in an Assembly committee.

One of the opposition's primary arguments is that full parity would drive up insurance costs. To address this concern, the Public Advocate studied the fiscal effects of parity laws in other states.

That analysis found that the cost of providing parity coverage is negligible. Some states have actually reduced medical costs when they expanded coverage of mental illnesses.

In addition, people who are diagnosed early are more likely to be treated successfully, their treatment is likely to cost less and they are less likely to miss work, resulting in increased productivity.

The Public Advocate's report was presented to a Congressional forum convened in Trenton to hear from state residents whose lives have been touched by mental illness and addiction. The report will be used this year in our advocacy efforts with the state Assembly.

Safeguarding Children's Health

Exposure to lead toxins in peeling paint is one of the most serious health threats confronting New Jersey children. In some urban areas in New Jersey, 10 percent of children have blood lead levels that classify them as lead-burdened and that can lead to irreversible brain and neurological damage.

The department, in collaboration with the Office of the Child Advocate, has launched a broad study of existing state and local systems designed to protect children from lead poisoning, with an eye toward improving these systems to safeguard the health of all New Jersey children.

In 2007, we will continue this research, expand our outreach and produce a report with recommendations for a more effective and coordinated response to this public health crisis.

Resolving Conflicts Without Litigation

The department is working with lawmakers to craft and pass legislation that would require alternative dispute resolution training and procedures for state government. Under this proposal, state officials would learn how to solve conflicts through mediation, rather than through expensive litigation. Studies have shown that similar federal requirements implemented many years ago have resulted in significant cost savings.

Expanding Tax Credits for Working Families

Many families struggle to make ends meet in high-cost New Jersey. It is important to provide a fairer tax structure to help lift these families out of poverty.

In Governor Corzine's budget plan, the Governor proposed expanding the number of people who would qualify for a state tax credit. Under the proposal, families earning up to \$40,000 could receive the state's Earned Income Tax Credit. This would boost New Jersey's current income threshold of \$20,000, which prevents thousands of low-income working families from reaping the financial benefits of this vital tax credit.

New Jersey's income threshold is much lower than the limits for the Federal Earned Income Tax Credit. The change would mean an estimated 300,000 working families would receive additional tax refunds, while also fueling the state's economy. Providing tax credits to hard-working New Jersey families is good public policy, and the advocate is attending events to promote passage of this tax credit and educate the public.

Helping Seniors Age with Dignity

All too often, senior citizens are forced to move from their homes into nursing homes or other restricted living arrangements simply because they have cannot afford in-home supports and services. While home care and community-based care do exist, no state funding was available to pay for them.

The recently passed Independence, Dignity and Choice Act is designed to change that. This measure, signed into law by Governor Corzine in June 2006, adjusts New Jersey's long-term care funding to provide more options to New Jersey's elderly residents.

The Public Advocate will work closely with other state agencies to ensure that senior citizens have the option of remaining in their own homes, as long as possible.

Guarding the Interests of Ratepayers

Under state law, New Jersey's electric distribution companies are required to provide basic generation service for customers who did not choose a competitive supplier after the deregulation of electric utilities. In reality, this encompasses the entire residential market, as well as parts of the commercial market, since no effective competition has ever been established.

For the past several years, the BPU ordered electric companies to procure this electric supply through a single, statewide power auction. At its February 2006 auction, bid prices increased about 55 percent.

To address the problem, BPU called for recommendations for a more competitive process. The Rate Counsel advocated several changes, including longer-term contracts and arrangements, which could help hold down energy costs.

The BPU voted to explore Rate Counsel's recommendation and will hold hearings on creating a more competitive process. Rate Counsel will testify at those hearings, representing consumer concerns.

Returning Overcharges to Consumers

The Public Advocate will also continue to push for PSE&G to return \$130 million it over-collected from ratepayers between 2001 and 2003.

The over-collection was the result of an extra charge called the Market Transition Charge (MTC), which was added to customers' bills beginning in 1999. PSE&G used those funds to repay a \$540 million loan it received from its parent company, PSEG. The loan was needed to cover costs related to the deregulation of New Jersey's energy market.

The MTC charge, however, remained on customers' bills well after the loan had been repaid. In 2004, PSE&G acknowledged that customers had overpaid and returned \$205 million. By the Department of the Public Advocate's accounting, however, PSE&G still owes ratepayers an additional \$130 million.

The matter is now before an administrative law judge. The Public Advocate will argue for the immediate return of those funds.

In addition to advocacy in these areas, the Public Advocate will release details about efforts in other major policy issues the year progresses.

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The Public Advocate

A Voice for the People

The Public Advocate's mission is to act as a voice for the people on a range of critical issues. This is accomplished through many avenues: policy research and reform, legal advocacy, investigation of abuse and neglect, community partnerships, legislative and regulatory action, education and outreach.

The Department of the Public Advocate is charged with making government more accountable and responsive to the needs of New Jersey residents, especially our most vulnerable citizens.

In 2007, we will continue to build on this strong start in acting as a voice for the people and a guardian of the public trust in these and other areas.

The Public Advocate's

Guiding Principle....

"New Jersey is a great state. But too many New Jersey citizens continue to face economic hardships and other injustices. At some point in our lives, almost all of us may find ourselves in one of the groups who do not have access to effective advocacy – children, the elderly, ratepayers – so in giving a voice to those groups, we are in a sense giving a voice to the public at large." –Ron Chen

