

FRIENDS of FIRCREST

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Fircrest School Residents Take DSHS to Court To Halt Eviction, Fircrest Closure

December 18, 2003 (Seattle, WA) – Three mentally retarded/developmentally disabled residents of Fircrest School, through their Guardians, today filed a lawsuit in King County Superior Court seeking to stop Department of Social and Health Services (DSHS) from downsizing or closing the state institution by issuing a permanent injunction to keep Fircrest open and to lift the admissions freeze instituted 15 years ago by DSHS.

The lawsuit accuses DSHS of seeking to evict Fircrest residents “without the informed consent of the Guardian, without any therapeutic basis for the relocation, and for no reason other than budgetary considerations, and without adequate hearing rights afforded to these vulnerable citizens.”

“Fircrest is a unique resource because it’s the only facility of its kind in the entire Puget Sound urban area,” said Jim Hardman, guardian for Gladys Barker, Michael Parsons, and Randolph Getchman, on behalf of whom the suit was filed. “We are outraged at DSHS’s plans to close Fircrest and move the residents - without their consent and contrary to DSHS’ own regulations concerning moving and appeal rights - to unfamiliar and potentially dangerous new placements that are far from their home, friends, and family members.”

The three plaintiffs in the lawsuit are:

- **Michael Parsons**, a profoundly retarded 60 year-old man who has lived at Fircrest for 38 years. Mr. Parsons requires 24-hour care, including nighttime observation because he is unable to through the night. He is nonverbal and also suffers from a condition called PICA that causes him to compulsively ingest nonfood items.
- **Randolph Getchman**, a 50 year-old man who has lived at Fircrest for 38 years. Mr. Getchman has profound mental retardation associated with tuberous sclerosis, which puts him at risk for malignancies and requires regular MRIs of his brain and kidneys. He is nonverbal and has a history of PICA.
- **Gladys Barker**, a profoundly retarded 77-year-old woman who has made Fircrest her home for 42 years. Gladys suffers from cerebral palsy and a convulsive disorder. She has osteoporosis and ostopenia, conditions that put her at enormous risk for broken bones. She requires three staff to move her for all transfers (bed to wheelchair to bathing gurney, to chair). She must be repositioned every two hours. She has a complicated diet due to a swallowing disorder and a very limited ability to burn calories.

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"Gladys is a lovely woman with a contagious smile," Hardman said. "Her life and health are a testament to the remarkable care at Fircrest. A move would most likely kill her."

Also parties to the suit are the Washington State Federation of State Employees and the Friends of Fircrest, an all-volunteer, nonprofit organization of parents, friends and guardians who engage in education and advocacy that benefits residents of Fircrest School.

DSHS is quietly planning to evict all of Fircrest's residents by 2006 and close the facility, according to internal DSHS documents, despite the fact that it lacks the legislative authority to close Fircrest. Instead, the agency is relying upon a budget bill passed in 2003 that directed DSHS to plan for downsizing Fircrest and consolidating residents at Washington's other four Residential Habilitation Centers (RHCs) or moving them into community-based settings, such as nursing homes or group homes.

A similar effort by California to close its institutions in the 1990's resulted in an alarming increase in the death rate. A follow-up study, published in 1998 in the American Journal on Mental Retardation, found that those residents who were moved into the community were 67% more likely to die as a result.

"Fircrest and the other RHCs are permanently established under state law, and our Washington State Constitution says the state shall foster and support them. Can you misuse a budget bill to get around that? No, you cannot. The RHCs must remain open," said Hardman.

"This suit seeks recognition of the fact that developmentally disabled citizens have rights, too," said former Washington State Supreme Court Justice and former state Senator Phil Talmadge, who is serving as legal counsel to Friends of Fircrest. When he was a state senator, Talmadge co-authored the 1982 Froberg law, which gives residents of the state's developmentally disabled institutions the right to a hearing before the state can move them from a state institution. "This is a clear case of a heartless state agency trying to move around 255 very vulnerable people, without giving them any voice on that decisions, in order to cut the state budget."

"DSHS is living in the past, following an extreme ideological agenda that says all institutions must be closed down," Hardman added. "The fact is, Fircrest is a high quality Center of Excellence that provides a vital *choice* in care for individuals with extreme mental retardation. Not everyone can live at home or in the community. For some individuals, RHC's offer the least restrictive, safest, and highest quality care environment available."

The lawsuit points out an important fact that DSHS has only recently admitted: the cost of caring for the type of profoundly retarded, developmentally disabled residents who live at Fircrest is not necessarily more expensive than care provided in community-based settings. In fact, in many cases, care for these individuals is more expensive to provide in a community-based setting than at Fircrest or other RHCs.

DSHS is planning to move all of Fircrest's residents to private placements or other RHC's by 2006. Hardman said it's an "open secret" that DSHS's long-term plans are to consolidate and close the remaining four state institutions, eventually moving all residents into private settings.

Fircrest is a certified Intermediate Care Facility for the Mentally Retarded and has a Skilled Nursing Facility that is rated one of the best in the nation. It has teaching affiliations and research relationships with the University of Washington and other universities in the local area and nationally. Its services and facilities are used by individuals with developmental disabilities living in the surrounding community as well as statewide.

Fircrest School, which opened in 1958, provides specialized, high quality and personalized service to individuals with mental retardation. It serves a population of mentally retarded people who are medically fragile, multiply handicapped, "profoundly retarded" and behaviorally challenged. Fircrest School has 255 long-term residents, with the vast majority (80%) considered profoundly retarded, and another 13% severely retarded.

For more information on the effort to save Fircrest School, visit www.fircrestfriends.org.

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