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Child Care Centers Get Help

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Many people trying to open child care centers say they often find themselves up against a wall of red tape, struggling to decipher a long list of city permit requirements and the related expenses that often accompany efforts to set up these centers in new areas.

That's where Public Counsel's Early Care and Education Law Project comes in.

The unusual program, hosted by Public Counsel lawyers and volunteer attorneys with Hogan Lovells, Goodwin Procter, Manatt, Phelps & Phillips and Munger, Tolles & Olson, specifically helps child care operators in Southern California navigate local permitting and other land-use hurdles. The program has been around for two decades, but organizers said it is gaining popularity because of a worsening child care center shortage.

A recent Advancement Project study found that one in five California 4-year-olds can't get into a child care center. In Los Angeles County alone, 100,000 children lack access to child care facilities, according to the county's Office of Child Care.

While the state has other programs to help child care owners, the Public Counsel project appears to be the only one focusing on helping them overcome real estate challenges, according to Karla Y. Pleitez, staff attorney with the Los Angeles-based organization.

"We try to help people start planning early for the permitting process because we know it will be tough," Pleitez said.

It can take an average of two years for a child care center to get through legal and regulatory hurdles necessary to open, she said.

One of the biggest barriers the program tackles with would-be child care center operators is Los Angeles and



Karla Pleitez, staff attorney with Public Counsel's Early Care and Education Law Project, with *pro bono* Allen W. Hubsch, a partner at Hogan Lovells, at a child care center they worked together to assist.

other cities' frequent requirement that child care facilities get approval from local planning departments for conditional-use permits, an often expensive and time-consuming process. The permits allow applicants to open in areas not normally zoned for such uses, such as an industrial area or residential neighborhood, and often require lengthy impact studies that can cost thousands of dollars.

"A lot of these operators don't have a lot of money, they have no background in permitting, and they're susceptible to making mistakes," said Allen W. Hubsch, a partner with Hogan Lovells in Los Angeles who volunteers with the program. "These aren't necessarily businesspeople, and they're doing this in large part because of their love for kids and desire to help the community."

Planning officials in Los Angeles and several surrounding cities did not respond to requests for comment.

To help guide center owners through the process, Public Counsel and the law firms involved in the project host regular educational programs to let child care operators know the ins and outs of conditional use permits and how they can challenge a planning department finding.

Public Counsel lawyers and attorney volunteers with Hogan Lovells recently helped a center owner in the San Diego County community of Vista challenge a city ordinance barring such facilities unless they went through the conditional-use permit process. As part of the settlement, the city agreed to cut certain prerequisites out of the approval guidelines, including a \$10,000 noise study.

"The process is now less stringent," Pleitez said.

The project also helps centers avoid mistakes on permit forms. Some of the operators' biggest mistakes are improperly classifying their businesses, Hubsch said.

For example, some erroneously check boxes for "preschool," he said.

"That's an enormous mistake," Hubsch said. "You'd need, not only a conditional-use permit, but a seismic study. It may be that other expenses are \$50,000."

Child care centers "don't fit very well with other uses" in city planning schemes, Hubsch said.

"Child care isn't an ordinary use - you can't pigeonhole it," he said. "It's not clear if it's a retail use, yet a lot of the centers are in retail spaces.

"They are more apt to be thrown into a category of things that need conditional use permits."

Hubsch said he and other program volunteers are talking to Los Angeles city and county planners about re-tooling codes to consider child care centers typical uses in areas that now require conditional permits.

Proposed changes are pending, he said.

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