A Group Home for AIDS Victims

A group of terminal AIDS victims have jointly purchased a home in a residential neighborhood with the intention of having a quiet, mutually supportive atmosphere for their remaining days. The purchase has been funded by the Pacific Foundation, a private organization that receives most of its funding from government grants and private foundations. There is nothing about the house, other than the nature of the residents that distinguishes it from others in the neighborhood. The location of the AIDS house has been widely reported in the press; therefore, it is public knowledge that AIDS sufferers now occupy the house. The majority of the public is convinced that AIDS is highly contagious and that they now face a greatly heightened risk of contracting the disease. This belief is erroneous. AIDS can only be transmitted through intimate contract.

A hastily formed neighborhood association brings an action against the AIDS victims alleging that the AIDS victims constitute a public nuisance that adversely affects the health and property values of the members of the association. They claim that they would need to receive $1 million to compensate them for the presence of the AIDS home. Of that amount, $800,000 would represent compensation for the decline in property values and $200,000 as compensation for the subjective risk of contracting AIDS. There is significant market data that can support this decline in property values in the surrounding neighborhood. However, in the wider community, including the affected neighborhood, there has been no change in the average price of homes. Experts on the disease suggest that there should be no monetary damages due to the presence of the AIDS victims, because the sole premise for the decline in value is the factually untrue belief that AIDS is highly contagious. If the AIDS house is not relocated, the $1 million in compensation would leave the homeowners indifferent between having the AIDS home in their neighborhood and not having one.

The administrators of the AIDS home estimate that it would cost the group about $100,000 to relocate to another area. Similar problems and concerns are expected to appear at most other urban or suburban locations. A rural area with few neighbors would arouse the no protest. Unfortunately, this location is likely to reinforce the feeling of isolation that most AIDS victims experience; therefore, this is a less preferred location. Other than the fact that the rural location is less desirable and would require relocation, there are no other significant costs attached to the rural location.

Given the subjective values and the quality of the damages, it may not be possible to state with certainty the efficient solution. However, you should be able to discuss the factors that determine the efficient solution. The efficient solution must entail either the AIDS home remaining or the AIDS relocated to the rural area. Choose one and explain why you think it is most likely the efficient solution. Your choice should be Kaldor-Hicks efficient. You might want to use that context to explain your efficient solution.

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1 This is based on a case discussing an Aids Home by Robert Cooter and Thomas Ulen
Given your choice of an efficient solution, you should explain the non-cooperative and cooperative results under the following assignments of rights. You may consider three-way bargains that involve the affected neighborhood, the wider community and the AIDS home.

1. The AIDS home has the right to remain.
2. The homeowners have a right to damages.
3. The homeowners have the right to an injunction.
4. The homeowners have the right to an injunction but must pay relocation costs.

Which of the property rights assignments is most likely to lead to the efficient solution and under which property rights assignments is it most unlikely that an efficient solution will be reached? You may want to discuss how transactions costs hinder the movement to an efficient solution.

The following questions are for class discussion:

1. How would efficiency best be served in this case? Is it more efficient to have the AIDS home in the neighborhood, or is it more efficient not to have the AIDS home in the neighborhood? Why? Is there more information you might need before deciding on an efficient outcome? According to Coases’ Theorem, does the determination of rights matter? Why or why not?

2. Should the suit be dismissed on the grounds that there is no scientific basis for fear and the resulting decline in property values – i.e., that there has been no compensable harm, or should you decide that the scientific basis for the fear is irrelevant? Although the fear is unjustified, it may be so widespread that people do fear living next to AIDS victims and, therefore, the demand for houses in the neighborhood has fallen significantly? Accordingly, the homeowners have suffered a real economic loss. However, might anyone else have gained because of the drop in property values in the neighborhood of AIDS home?

3. Are there economic arguments against holding the AIDS home liable for the drop in property values? What impact does it have on the production of correct information? Are there other unspecified external impacts that should be considered?

4. If you do not believe that there has been a compensable nuisance, are there any other actions that might enhance efficiency? Suppose you levied a general tax and the revenues from the tax were used to reimburse the
homeowners for their market losses. How would you decide whether government intervention is efficient?

[Your essays should not discuss how this case might be actually litigated. We are more interested in how the assignment of property rights affects the outcome, than in interpreting current laws. In all likelihood the AIDS home would be allowed to remain in the neighborhood under the federal Fair Housing Act.]

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