

Housing elderly with medical need in Sweden – an individual entitlement to a normal life including a normal home, providing for but not depending on family members

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Abstract

A reform in 1992 placed the duty to create special housing (särskilt boende) for persons with disabilities on the municipalities. This form of housing should be treated as a home equal to the ordinary homes of the non-impaired. The reform created a new role for the municipalities, namely that of the landlord. If the conflict between the caretaker and the municipalities relates to the tenant-landlord relationship it shall in most cases be dealt with by rental boards and appealed within the civil law court system. One effect of this system is that when a tenant dies a healthy spouse may take over the special housing apartment instead of a person with a disability.

In 2007 and 2009 it became possible to receive state subsidies for special housing for healthy elderly persons as well. The idea was that they should move into a home where they could stay as they grow older and developed a need for social and medical care. The private market produces such housing too, without subsidies.

Two central goals in Sweden is that persons with disabilities shall have normal homes adequate to the needs of them and their families, including home protection after the tenant dies and that the municipality shall assist all persons with disabilities so that they become self-sufficient. No one shall be forced to rely on help from a family member or a relative.

These two goals which both underpin the legislation on the area are hard to combine.

1. Introduction

Elder law is a truly new legal discipline in Sweden. The first comprehensive book covering several social law areas is forthcoming.¹ There is very little written in each of the legal areas covered by that book. In the area of housing law in relation to elderly persons with medical needs there is no major research in the field of law to point the reader towards.

One central social policy goal in Sweden is to make it possible for persons with disabilities to live a life similar to that of an able-bodied person. Having the same effective control over one's home is one of many aspects of this policy goal.

Another very important policy goal in Sweden is that all persons shall be self-sufficient. Only in relation to spouses and children under the age of 18 is there a duty for the parent or the other spouse to

¹ Numhauser Henning A and Mattson T (eds), *Äldrerätt – ett nytt rättsområde* (Elder law – A New Legal Discipline).

assist.² A parent is not responsible for an adult child or vice versa. If a person develops a need for medical and non-medical care there is a strong legal principle that the state and the municipalities (at local and regional level) shall provide it. This principle is, however, hard to uphold in reality.

In Section 2 the historical perspective is given when institutions became the residual solution for person whose family could not take care of them. Section 3-4 describes how institutions were replaced by the renting of a normal home (a special apartment) under the Tenancy Act³ with tenancy protection and all other tenancy rights that able-bodied persons have and how this can lead to a healthy surviving spouse having a better right compared to a person with medical need for such an apartment. Chapter 5-6 describe subsidized and unsubsidized alternatives to special apartments in the private sector or the open⁴ public sector.

When renting or owning the home becomes a normal civil law contract, receiving social services must often be separated from the housing relationship and instead becomes decision on provisions of these social services. This is described in Sections 7-8. Finally, there are some small guesses about where the system will go in the future.

2. Social services for people who need it as oppose to people who are entitled to it in a historical context

Within all forms of social policy the concept of justice is always important. It requires the society to have clear principles for who shall be awarded and who shall not be awarded a benefit. Two very different concepts of the base for the right to a social benefit is to give it to those who *need* it or to give it to those who are *entitled* to it.

Medical services are given in Sweden to those who need it. It is a citizen right. If the medical emergency is higher for person A compared to person B, A gets the treatment first and B has to wait in line. It does not matter if A is a criminal and B has worked and paid taxes her whole life. Need, not entitlement, is the criteria when two persons want the same treatment at the same time. They also pay the same very low price while hospitalized. In theory, long-term care benefits shall be awarded in the same way, based on need alone with a price affordable to everyone and with no duty to use one's own savings or to rely on family members.

Social security legislation based on entitlement may on the other hand be divided into two subgroups. The entitlement may stem from work, like in the Swedish pension system which is built on a direct relationship between the taxes paid on work during the life time and the amount of pension awarded. If a benefit stems from work or payments and it's amount is closely related to what has been paid into the system Anna Christensen calls it a market functional legislation as it achieves an end result, very similar to what a free market would have done.⁵

Entitlements can also be based on legislation protecting established positions – regardless of how those positions came to exist.⁶ A rental contract for a dwelling can not be ended merely by the

² Parental code (1949:381) Chapter 7 Section 1. If an adult child is in basic or secondary education the duty of the parents to support him or her can be extended to the age of 21 but no longer. Marriage Code (1987:230) Chapter 6 Section 1. When a marriage ends, there is as a general rule no more duties between the former spouses. Co-habitation Act (2003:376) has no rule on support between spouses but having a common household economy is one of the factors which constitutes a co-habitation under the act and the income of a cohabitee is regarded in relation to some means tested social benefits.

³ The Tenancy Act is commonly used to describe Chapter 12 of the Land Code (1970:994).

⁴ There is no "social housing" in Sweden. All citizens can apply for all apartments including apartments in the public sector, regardless of their social circumstances.

⁵ Christensen A Normativa grundmönster i pensionssystemen (Normative Patterns in The Pension System). I: Lovens Lov. Festschrift till Jörgen Dalberg Larsen. Cobenhagen 2000, p. 178.

⁶ This term is also from Anna Christensen. It is the most important pattern in social security and the income replacement principle as well as the protection of tenants or workers from eviction and dismissals are all part

expiring of the contractual time or a notice of termination within the correct notice period. In Sweden, a landlord almost always⁷ need the approval of the rental board because any unilateral conduct by the landlord to terminate the contract will otherwise be regarded as void.⁸ The protection is given by the Tenancy Act to all persons who rent a dwelling. It is the mere possession of a rental contract for a dwelling used as the tenant's home that is protected, not need or something the tenant has done previously to deserve the contract.

At the inception of the social welfare state most states started with need as the main ground for social benefits. Historically, the family took care of persons in need. If the parents could not take care of an adult child with a disability or if the adult child could not care for a parent or grandparent with a disability they were placed in the municipal poor house. The first Swedish state pension in 1913 worked according to the same basic principles for all disabled persons above the age of 15.⁹ It provided half of what was necessary to survive. More people could then be cared for by their families but for those who had no one who could provide the extra resources the municipal poor house was the remaining alternative.¹⁰ The family was the primary solution and the municipal poor house was a residual choice.

The old municipal poor houses were gradually replaced by large regional special hospital units. Elderly people with physical, psychological or cognitive disabilities were sharing these institutions with younger persons with similar problems. These institutions could be so large as to have their own hairdresser, shop restaurant etc.¹¹ A place in such an institution was given as a health care decision and a patient could be moved from one ward to another because a doctor thought it appropriate. Medical need was thus the sole distributional criteria. A person could not protest and say "I have lived in this clinic for many years, this is my home".

Gradually, the idea of separating such persons from the rest of society lost out to another idea. They should be viewed as normal persons and have a home like other normal persons do. The large institutions were closed and replaced by much smaller units providing homes.

3 The entitlement to a normal home also for persons with disabilities

Since the early 1990-ties the municipalities were given the duty to provide housing and non-medical service like cleaning and cooking to elderly or other persons with need. This housing was created with the same tenancy protection as other homes.¹² It was provided in the form of special apartments (*särskilda boenden*). Such apartments can have have equipment for lifting persons from the wheelchair to the bed. They are often in a unit with rooms for common activities like meals. If somebody rings on the security line help is available within the housing unit. Both the elderly and their relatives often prefer these apartments as they feel safer being this close to assistance if the need may occur.

of this pattern. See, Christensen A, Skydd för etablerad position. Ett normativt grundmönster (Protection of Established Position – A Basic Normative Pattern). *Tidsskrift for Rettsvitenskap*, 1996, p. 519-574.

⁷ The only exceptions is severe breaches of contractual obligations by the tenant or situations tenancy protection does not apply or can be opted out of in the contract between the landlord and the tenant. A landlord renting out a dwelling outside the family sphere can not opt out of tenancy protection unless demolition of the building is foreseeable in the near future.

⁸ Land Code (1970:994) Chapter 12 Sections 3, 49 and 46 read in conjunction.

⁹ 20 % of the persons above the age of 67 had no right to the main pension either because they were healthy enough to work or had so much income or wealth to make their pension being reduced to zero.

¹⁰ The alternative solution was often to "contract out" to a farmer care for a needy person and allow the farmer to require labour for him or her. Larger municipalities sometimes had manufacturing houses, where they could place beggars, vagrants and other persons who according to the authorities had a duty to work.

¹¹ Persson-Bergvall I & Sjöberg M, Åratal ur handikapphistorien (Years in the History of Persons with Disability), Handikapphistoriska föreningen, Stockholm 2012, p. 27.

¹² Government bill 1990/91:14, p. 39 and p. 42.

The waiting list for such apartments are long and the newspapers often present stories of persons with severe problems who can not get such a place. The only way to get the contract for such an apartment is through the municipal social board. Once it has decided that the person is entitled to a contract for a special apartment, a rental contract under the Tenancy Act is made between the municipality and the tenant. This means that the tenant gets all legal rights that an ordinary healthy tenant has in relation to his or her landlord.

An ordinary tenant can let his or her partner share their apartment and so can the tenant of a special apartment. Thus, a 70 year old person with dementia sometimes share with his or her healthy spouse. If a tenant dies a family member living in the apartment has a right to take over the rental contract unless it is unreasonable with regard to the landlord's interest.¹³

If the healthy surviving family member is and old spouse, has lived a long time in the apartment and have friends there, the surviving spouse's chances of winning a case if the landlord wants to end the contract at the end of the statutory three month notice period is good. In such cases the landlord need an approval from the rental board otherwise the rental contract continues. These cases will be decided by a balancing of interest. The landlords interest of freeing the apartment so that it can be rented out to the person in the queue with the most need will be put in one scale. In the other scale will the interest of the surviving spouse be put. Even if he or she is given a normal apartment, it may still be that his or her interest is considered more important and the landlords notice of ending of the contractual relationship is denied.¹⁴

If so, the healthy surviving spouse will live in the special apartment, but without receiving assistance paid for with tax money like help to clean and cook. He or she will for instance pay a price based on cost (i.e non-subsidized) if eating in the common dining room. Being a true home for the demented person thus entails a rights to let his family settle there and sometimes a right for them to stay there when he or she dies. This is the core difference between an entitlement to a normal home and an entitlement to a place at a care-giving institution. The place at a care-giving institution is taken away if the need for it ceases.

It is a general trend in Sweden to avoid treating persons with permanent medical needs as patients. From patient to...tenant, consumer or any other normal category to which a healthy person may belong is names which official inquiries often adopt. It is also a clear societal goal to provide persons with disabilities conditions similar to that of able-bodied persons. Therefore, it would be highly controversial to suggest that persons with medical need should have lesser rights for their homes with regard to providing for family members.¹⁵

With regard to housing one consequence is that an apartment in a unit for persons with permanent medical need may be legally transferred (with tenancy protection) to a healthy person when the tenant dies. At the same time the scarcity of these apartments is so large that the municipalities can not fulfill what is required by them in law in relation to person's queuing for such an apartment.

4 Rights of persons needing special apartments and waiting in the queue

¹³ The application of the rules in the Tenancy Act on Special apartments is the main topic of Norberg P, Hem eller vårdplats? (A Home or a Place at A care Giving Institution?), Socialvetenskaplig Tidskrift, 2014 nr 3-4 s. 350-371.

¹⁴ There is no special legislation. This is the normal application of the Land Code (1970:996) Chapter 12 Section 46 which applies to young and old, able bodied or disabled alike.

¹⁵ The key word is full "ability to participate" (delaktighet) in the society. See, for instance government bill 2016/17:188 p. 7. Being able to share an apartment with a spouse as opposed to have a personal place in a care-giving institution is a central (and uncontroversial) part of this concept.

In Sweden a parent is not responsible for a child when they become 18 years old. If the child has a disability and need a special apartment the municipality shall provide it regardless of the income or the wealth of the parents. The same applies to elderly people, if they need special housing they shall get it regardless of their adult children's (or other relatives) possibility or willingness to help them. This important principle is however not upheld in practice.

When faced with many persons needing a restricted number of available special apartments, the municipalities often give preference to persons who have no adult children or whose adult children is living far away. Family members are often considered to have a moral duty to take care of their elderly relative. This is clearly a norm within the municipal reality even if it is abolished in the state legislation formally regulating this reality.¹⁶ If the elderly person is refused the place in the special housing or some other form of assistance, it becomes very hard for the adult children not to assist him or her.

In Sweden, there is an absence of discussions about this collision of norms. Discussing them would mean admitting that the state can not afford all things promised to the citizens in law. An honest discussions about priorities would be good. Should really persons with permanent medical need have the same home-protection not only for themselves but also for their family members?

- A municipality can not take a healthy surviving spouse and discuss his or her right to take over the rental contract from the deceased partner.

She or he has a right to do so and to compare his or her needs to the needs of a person in the queue with strong medical need would be to vilify her. An adult child living as a single person will not be vilified for taking over the parents five-room apartment even if there are other families living in crowded conditions in the municipality. The transfer of a tenancy promotes the interest of the person who has lived in apartment over the one that needs it most. It is equally true of able-bodied persons and persons with disabilities. Following the law means giving the healthy spouse the apartment and there is no way around it since the rental board will not accept a cancellation of her rental contract.

It is the same way with the provisions on how to distribute available special apartments.

- A municipality can not openly discuss a case of one person with strong medical needs and an adult child living in the municipality and another with slightly less strong need but without a close relative with a moral duty to take care of him or her.

Any suggestion of giving preference to the latter person would tantamount to admit to not follow the law. If the persons are named the former would win a case in the administrative courts claiming a right to a special apartment. However, in such a case it is easier for the municipality to apply their own selection criteria just by pretending that the person without relatives had marginally higher medical needs. A case in an administrative court will be about the needs of the plaintiff only. If they have sufficiently strong needs they may win and the municipality may be ordered to provide special housing. However, one does not compare two persons. Nobody can claim the right to a specific apartment and if one person mistakenly has been given an apartment though the need was not high enough another person can not claim the same treatment.

5 Adapting a current home to the owner's or tenants medical needs

Having too few special apartments to provide such to all who need them other alternatives which are cheaper to the tax payer are used as well.

¹⁶ See for instance Katzin M Chapter 6 Socialtjänstens insatser för äldre (Provisions of Social Services for Elderly Persons) in Numhauser Henning A and Mattson T (eds) , Äldrerätt – ett nytt rättsområde (Elder law – A New Legal Discipline) Forthcoming.

Adapting the existing house or apartment to make it possible for the person in need of help to stay in their previous home is one possibility. The costs of widening doorways, providing lifts to the second floor and making a kitchen and a bathroom work for the person in the wheelchair is covered by a housing adaptation allowance (bostadsanpassningsbidrag). It does not matter if the person owns or rents the house and it does not matter whether they are wealthy or not.¹⁷ Getting the permanent home adapted to the disability is regarded as a state help for a medical problem just like the heart surgery is and it is available to the young and the old alike regardless of income or wealth.

6 Security apartments a form of special apartments for the healthy

Since 2007 there has been a form of special apartment's called "security apartments" (trygghetsbostäder).¹⁸ They are produced and distributed in open markets. Such apartments are built so that a person can live in them with an electric wheelchair and it has to have basic services like security alarms for medical emergencies. They also have to have rooms for common activities like dining.

A landlord can apply for a special grant when building such dwellings. In return the landlord must accept to rent the apartments only to persons above the age of 65 (previously the age of 70). The idea is that if healthy elderly move into such apartments, the need to do individual adaptations is reduced and a healthy 65-year old person is more likely to need such adaptations in the near future compared to a younger person.

Newly built apartments are expensive even if there is a rent regulation in Sweden.¹⁹ Allowing healthy persons to rent them makes it possible to produce more apartments that fulfill both the requirements of healthy persons and persons with disabilities and in the long run that will help everybody. A municipal housing company would typically distribute such apartments not only on the criteria of time on a waiting list, but on need as well. A private housing company is free to rent out to whoever it chooses who fulfill the age requirement. However, a private landlord must abide by the rent regulation, and unless the landlord has a friend or a family member they want to do a favor, they lose nothing by co-operating with the municipal housing exchange and allowing it to choose a new tenant according to need.

Previously, security apartments could be produced as co-operative ownership apartments (bostadsrätter)²⁰ also. In these cases the owner almost always sold it to the highest bidder fulfilling the age requirement, without regard for his or hers need and therefore it is not possible to get a grant to make new such houses in this form.²¹

Even when "security apartments" could be built in the co-operative-ownership form many co-operatives chose to build new such apartments without taking any state subsidies. Without state

¹⁷ Act 1992:1574) on Housing Adaptation Allowances Section 4.

¹⁸ Ordinance (2007:159) on Investments Subsidies to Apartments for Elderly Persons. It was in 2009 these apartments became available for healthy persons reaching the age of 70 (Ordinance 2009:1250) and in 2016 the age limit was lowered to 65 (Ordinance 2016:848).

¹⁹ The application of the rules in the Tenancy Act on Special apartments is the main topic of Norberg P, Hem eller vårdplats? (A Home or a Place at A care Giving Institution?), Socialvetenskaplig Tidskrift, 2014 nr 3-4 s. 350-371. There are plenty of rent regulation cases regarding special apartments and the tenant often wins them. There is a strong incentive for the municipality to have high rents as rental subsidies can be given to the individual from the National Social Security Board if they have a small old-age pension or disability pension.

²⁰ The Swedish word "bostadsrätt" is difficult to translate. It was previously a co-operative housing form with restrictions on making major changes to the apartment and the price allowed if it was sold. Gradually, it has evolved into a form of full ownership with (in principle) a total right to make changes to the apartment and a freedom to sell it to the highest bidder.

²¹ Ordinance (2016:848) on Investments Subsidies to Apartments for Elderly Persons, Section 2

subsidies they are allowed to set their own age limits and 55 years is not an uncommon age limit.²² Typically, they follow many of the rules for the state subsidies but if they take no subsidies, they have no duty to follow the whole special legislation and can decide to disregard the rules they dislike.

“Security apartments” are expensive and healthy working persons can better afford them compared to persons on disability- or old-age benefits. A bathroom, a hallway and a kitchen adapted to a electric wheelchair needs to be bigger and therefore more expensive compared to the same area adapted to a healthy person.

To summarize the situation, if a person already own or rent a dwelling which may become adapted to their need by taking from other rooms to increase passways, bathrooms etc, the extra cost of doing so is a social insurance. If the risk has materialized, the person get the financial assistance regardless of their income or fortune in the same way as a car insurance provide assistance if the car is stolen or destroyed regardless of income or fortune.

However, if the person own or rent only a small dwelling and need new housing area, they must pay for it themselves or apply for financial assistance in a process were the welfare officer looks at the income and fortune of both the individual and his or her spouse.²³ Then, the disability is not treated a social security risk but as an individual’s need of help for their individual situation. Housing is treated in the same way as all other consumer needs and a spouse should help before the taxpayer is called upon. The same applies to a place in a special apartment. It is always a decision based on individual need – though without regard for the possible help by a spouse or relative.

7 Receiving help with daily activities

A Swedish elderly person with a medical need can thus live in their ordinary home and have it adapted with a state allowance. The municipality then send them personal to help them with food and cleaning of they need this help.

They may also buy a suitable home if they can afford it. It perfectly possible to buy or rent a security apartment with security alarm, place for a electric wheelchair and common rooms for dining and other activities. A healthy person above 65 is allowed to rent subsidized housing this way and a person above 55 can buy or rent unsubsidized such housing.

The municipalities can help persons who need such housing but can not afford it in two ways. One is to buy an apartment on the open market and then rent it out to them²⁴ or allow them to rent one from the municipal housing company. The other way is to allow them to rent a special apartment. All rents for dwellings are rent regulated in Sweden and have tenancy protection which can be transferred to a spouse, including these apartments. Therefore, even special apartments can end up being occupied by a person with small or no medical need.

²² Government bill 2011/12:159, p. 42. When the prohibition of age discrimination was extended into the housing area, allowing a age-limit of 55 years as a normally acceptable choice by the co-operatives was accepted by the government as a general principle.

²³ There are general housing allowances in Sweden. A person with a low disability- or old-age pension will get a special housing supplement (särskilt bostadstillägg). It is related to general need and sets a maximum cost that can be replaced according to a formula taking housing costs, income and saved capital into account. This formula is based on the same maximum housing cost regardless of whether the person is in a wheelchair or not. Above this level the individual assessment by the welfare officer take place.

²⁴ Special legislation in the Housing Co-operative Act (1991:614), Chapter 2 Section 4 and Chapter 7 Section 10 Point 2 allow this strategy by the municipality but all other actors must buy for their own housing needs.

Each person regardless of which housing form they live in get an individual decision on what amount of non-medical help they need. Cleaning, cooking, eating, taking a shower going to the toilet and so on. Some of these services like taking a shower are relative unproblematic. Nobody ask for it unless they need it.²⁵ But with regard to things like cleaning most people would prefer that somebody else does it at the taxpayer's expense.

Nowadays, when many of the elderly with medical need are not in institutions separated from the rest of us but often live together with healthy people in mixed housing, the care benefits they receive are noticed by their neighbors and may become a source of envy. Somebody who sees that his or her neighbor get cleaning help may want it to. If they are equally old and only slightly healthier they may be denied this benefit by the municipal social board.

Some municipalities now give cleaning help to all persons above a certain age. A government White paper has in March 2017 suggested new legislation allowing simplified assessment of need above the age of 80.²⁶ It means that to some degree a person who has reached this age may get the benefit because persons of that age generally need them without a detailed assessment of their individual need.

This is the same process that occurred with pensions 100 years ago. In 1913 all disabled persons above the age of 15 received a state pension. Of those above the age of 67, 80 % were considered too disabled to work. The remaining 20 % often felt unjustly treated and regarded themselves as deserving of a pension as well. In the 1930-ties – a time with high unemployment – almost all 67-year old persons got disability pensions in Sweden. In 1935, this situation became formalised as Sweden got a true old age pension based on age alone.²⁷

This kind of thinking is now starting to creep into social assistance for elderly persons with medical need as well. We are starting to perceive it as a right for *all* elderly not only those with a disability.

Applying for – and as a part of this process – having to prove individual need for cleaning service to a municipal officer may seem degrading to the applicant in the same way as applying for a disability pension above the age of 67 once was. Especially if the request is denied, the persons may feel that he or she has been unjustly treated as somebody who tries to live on others even if he or she needs no help. An official age limit when it becomes an entitlement will make people avoid going through this process and instead waiting until they reach this age.

8 Help that has a substantial cost to the taxpayer and the social security model

Smaller costs can be taken by the taxpayer in order to make for instance cleaning help available to everybody above a certain age. However, with regard to things that are very costly the incentives for the taxpayer to keep the benefits only for those who really need them is strong.

Sweden has made two very expensive promises with a social security character.

- A person with a disability and needing a special apartment shall have a normal rent contract just like other persons which includes tenancy protection and a right to transfer the apartment?

²⁵ However, if such things are provided in a too restricted way the elderly person will ask adult children or other family members to help instead. In this perspective they may be highly problematic.

²⁶ Government White Paper 2017:21 presented a concrete legislative proposal ready for the Parliament to accept. However, the National Social Board would still have had to provide guidelines on exactly how simplified, the simplified assessment could be.

²⁷ Act 1935:434.

- A person in need of a special apartment shall receive it. A young person with a disability shall not be dependent on the parents and an old person with a disability shall not be dependent on their adult children, spouse or other relatives.

A person who need a special apartment expect to receive one and to be able to live there with the partner or other family member.

A young adult may expect to help elderly parent's with things like gardening but they do not expect to be required to help with daily activities or activities occurring 2-3 times a week.

It is very hard for Sweden to go back on any of those two promises. Saying that persons with disabilities shall not have the same tenancy protection as other citizen is contrary to the spirit of the Convention on the Rights of Persons with Disabilities (CRDP) which requires the state to do its best to make persons with disabilities able to live as normal life as possible.

Saying that a healthy spouse or an adult child must look after a person with medical need is contrary to basic Swedish legal norms putting emphasis on the individual – not the family – as the basic organizing principle in social security and social services. During a marriage both persons have a duty to look after each other. After a separation the normal solution is that each person fend for itself. There is no legal duty whatsoever for a parent to take care of an adult child or vice versa. Basing elderly care on an open admission that this is the only area were this norm shall apply would be highly controversial.

Yet special apartment units are expensive to operate at least if they come with a high service level. The taxes have so far not been high enough to provide the needed quantity. A municipal welfare officer with a limited amount of such apartments is tempted to give priority to a needy person without family support rather than to a person who has it.

Paradoxically, on the one hand in Sweden the legal trend is to make the rights of both elderly and younger disabled persons more of individual civil rights. On the other hand, the family as a care giver has been given more prominence - not as normative idea - but as a consequence of the reduction of places in special apartment units in relation to the number of elder with disabilities.

The state subsidized security apartments but even more so the private sector non-subsidized security apartments can also be viewed in this way. An elderly person is expected to sell their ordinary house and buy an apartment adapted for medical needs even before those needs arise. The more the individual is expected to solve such problems themselves, the more the municipal special apartments becomes for those who has medical need without an ability to pay.

9 Looking into the future

The first promise, to provide all persons who need it with a special apartment with full home protection looks like it will be possible to fulfill in the future. Today's housing production, when apartments adapted for special medical needs and with common rooms for dining and so on are built without subsidies in the private market, will in the long run result in a situation where there are many more such apartment than persons with medical needs. The conflict between a person in the queue with a high medical need and a healthy surviving spouse discussed in section four will probably be less problematic in the future when there is less shortage of such apartments.

A rich person who has bought such an apartment will probably want to stay there if he or she develops dementia. In such houses, some but not all tenants or owners will need care benefits. Today's special apartments may well move in the other way. The easier it is for the municipality to buy new such apartments on the open market, the less of a problem it is that healthy spouses or even children take over the rental contract. Thus, current special apartments may also move in the

direction of mixed housing. The new normal may well be that there is no housing with only tenants or owners who need help for medical reasons.

The key conflict area in the future will probably be the decisions on municipal support and the promise given to both the elderly and their adult children, of persons with disabilities receiving adequate help from the municipal and regional authorities. Such services as cleaning may possibly involve into old-age entitlements. One benefit of having all above 80 years being entitled to two hours of cleaning is that their adult children or grandchildren is liberated from the burden of doing this cleaning. A mere increase of pension levels does not have this effect as the elderly person may want to spend it on something else.

With regard to other things like help to go to the toilet, taking showers, go shopping at the grocery store and so on, such help will probably never be an entitlement for those who reach a certain age. Those who do not need it will not want it. However, in a situation where there are limited amounts of money in the public sector, the temptation will always be to do as with the awarding of special housing today – to take family assistance into account when deciding on the taxpayer's commitments.

Setting a low standard for everybody like showering once a week and writing a shopping list for all days except once a month when the person may be accompanied to the grocery store to see what is available and be able to make an impulsive shopping decision, and then expect family members to help those who want to shower more often or go to the grocery store more frequently is quite possible. Individual derogations may naturally be made for those who have no family or whose family does not help enough. Relatives – even relatives of those lucky enough to have received a place at a special housing care giving unit – today often feel morally obliged to do things not provided for by the institution.

Normatively, it takes us back to 1913 and the municipal poor house. The material standard for those depending on the municipality is much higher today. However, the municipal standard is so low that the additional efforts from the family is still needed. The responsibility for an elderly person with medical need is in reality - though not in theory - divided.

Many important forms of assistance to live a ordinary life despite having a disability, like being provided with a personal assistant under the Act on Support and Service to Some Persons with Disabilities, is provided under different criteria for persons above 65 years.²⁸ For elderly people a lower standard applies – a standard that may make extra efforts from family members needed.

²⁸ A person with assistance for personal uses who has been awarded it before the age of 65 may keep it. However, the amount of help can not be increased and a person who develops a disability after this age can not get help for some activities according to Act (1999:387) On Support and Service to Some Persons with Disabilities, Section 9 b.

