

Judge won't toss SMOC lawsuit

► Denies town's request, urges two sides to reconcile

FRAMINGHAM

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DAILY NEWS STAFF

FRAMINGHAM — A federal judge yesterday denied the town's request to throw out a

federal lawsuit filed by the South Middlesex Opportunity Council and strongly encouraged the sides to settle before the case goes to trial.

In his 100-page ruling, Judge Douglas P. Woodlock ruled SMOC has enough evidence that suggests a pattern of interference or intentional discrimination to proceed to trial.

That evidence, Woodlock wrote, "may ultimately

demonstrate that certain defendants, through abusive communications and improper efforts to manipulate the municipal permitting process," broke laws that protect people with disabilities such as alcoholism and addiction from having access to housing and treatment programs.

As one of three exceptions to denying the town's motion, Woodlock dismissed Alexis Sil-

ver, the town's human services coordinator, from the suit finding "insufficient support" for SMOC's claims against her as an individual defendant.

SMOC, a nonprofit social service agency, filed the lawsuit in 2007, charging town leaders and a handful of residents participated in "a coordinated effort to rid ... Framingham of its disabled population."

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SMOC has argued four current selectmen, three Planning Board members and others violated federal housing law and blocked the agency from expanding its programs.

The judge has imposed a gag order preventing the parties from publicly discussing the case, but both sides issued statements on Woodlock's ruling late yesterday.

"On behalf of the poor and disabled population served by our agency, we embrace and are humbled by today's decision," SMOC said in its statement.

At a hearing on the motion last July, Woodlock pressed SMOC to produce evidence to justify individually suing the defendants it listed, to see if the claims should go before a jury.

The town, in a statement yesterday, said the judge's decision, while in SMOC's favor, simply means there are "conflicting views of the facts" that still have to be sorted out.

The sides have apparently been talking for several weeks about restarting formal mediation, the statement said.

"The town welcomes the court's forceful exhortation that the parties make every attempt to settle," the town's statement reads. "This places on all parties the responsibility to work in good faith to at-

tempt to resolve the matter in order to spare the community, and all the parties, the various costs and burdens associated with moving this matter forward."

A settlement offer proposed by SMOC last year was unsuccessful.

While SMOC offered to drop the lawsuit with no money changing hands, the town refused to accept the proposed conditions, which included forming two commissions with representatives from the town and private social services. One would work to improve relations between the town and social service agencies and one would review local zoning by-laws.

"Perhaps at this point," Woodlock wrote, "with the potential for increased costs - both economic and personal - looming and the ultimate outcome by no means certain, more measured and sensible voices will come to the fore and less belligerent roles will be assumed in an effort to resolve this matter by some alternative to accumulating additional litigation expenses."

"We thank the judge for that statement right there," said Framingham resident Herb Chasan, who has worked as an unofficial mediator in the matter. "It's perfect."

A status conference is sched-

uled for Oct. 28 in U.S. District Court in Boston.

The town has already spent at least \$750,000 defending the lawsuit.

SMOC angered many leaders and residents by asking in its suit to have the town placed in receivership, meaning courts would have final say on decisions normally made by the Planning Board.

The agency claims the town tried to block or stall SMOC's plans to relocate and expand its Sage House, a home for recovering drug addicts and their families, and to open Larry's Place, a shelter for disabled veterans.

The current defendants, named individually, are Selectmen Dennis Giombetti, Jason Smith, Ginger Esty and Laurie Lee (whose role was Town

Meeting member in 2007), Planning Board members Susan Bernstein, Carol Spack, Andrea Carr-Evans and Ann Welles, and Town Meeting members Peter Adams, Cynthia Laurora and Steven Orr.

In his new ruling, Woodlock removed a handful of allegedly defamatory statements against SMOC made by Adams and Orr, while he found cause for a jury to hear others.

Adams founded the group Stop Tax Exempt Private Property Sprawl, which opposed SMOC's relocation of Sage House to 517 Winter St.

Orr moderates the e-mail group Framingham Neighbors.

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