

Town Of Boston Named In Discrimination Suit

Housing Opportunities Made Equal (HOME) and Community Services for the Developmentally Disabled (Community Services) have filed a federal discrimination suit against the town of Boston for refusing to issue a permit to build a group home for four developmentally disabled adults. Plaintiffs contend that the Town's actions constitute disability discrimination, which is prohibited by both the federal Fair Housing Act and the New York State Human Rights Law.

The suit was filed on May 6, over a year after Community Services acquired land near the intersection of Cole and Omphalius Roads in the Town of Boston for the purpose of building a community residence. The facility would help people with developmental disabilities live with a high level of independence, with staff available around the clock. However, the proposal prompted opposition from Town of Boston residents.

Under the New York Mental Hygiene Law 41.34 (also referred to as the Padavan Law) municipalities have a right to object to a facility of this kind if "such a concentration of community residential facilities for the mentally disabled in the municipality" would "substantially" alter the nature of the community. On April 30, 2015 the New York State Office for People with Developmental Disabilities (OPWDD) convened a public hearing in Boston on this matter. On August 13, 2015 Acting Commissioner Kerry Delaney of the New York State OPWDD ruled in

favor of the group home. Despite the ruling, the Town Board informed Community Services that it would not issue building permits.

The lawsuit comes after months of notices requesting that the Town comply with OPWDD's ruling. The plaintiffs argue that the Town of Boston has "intentionally acted with malice, indifference and callous disregard . . . and has interfered with plaintiffs' rights to housing free from discrimination." The complaint also contends that this act of discrimination invalidates the Town's regular certification that it affirmatively furthers fair housing, thereby endangering its eligibility to receive federal funds.

"Acting under the color of law, the Town of Boston has willfully discriminated against people with developmental disabilities," said HOME Executive Director Scott W. Gehl. "Such a violation cannot be allowed to stand."

Mindy Cervoni, CEO of Community Services for the Developmentally Disabled, stated, "As an agency we continue to focus on helping the people we support live the life of their dreams. For some of them, this would be their first opportunity to live independently in the community. Community Services appreciates the support of HOME and those in the community who advocate on our behalf."

Hurwitz & Fine, P. C. represents both CSDD and HOME.

Community Services for the Developmentally Disabled is a not-for-profit organization established in 1989 to provide services to people with developmental disabili-