

[Back](#) [Home](#)Share: [E-mail](#) [Print](#) [Comment](#) [Digg](#) [del.icio.us](#)

## Federal Judge weighs SMOC claims

By Dan McDonald/Daily News staff

**MetroWest Daily News**

Posted Jul 31, 2008 @ 01:35 AM

BOSTON — The SMOC legal drama will roll on.

In the latest development of South Middlesex Opportunity Council's legal battle against Framingham and its officials, a federal judge has taken under advisement several motions to dismiss the various allegations, while denying several other dismissal motions.

Judge Douglas P. Woodlock also ordered SMOC's legal team to submit by the end of next week a list indexing the paragraphs in the agency's claims that feature allegations for each defendant.

SMOC claims a conspiracy of town players worked to block expansion of its programs.

Specifically, attempts to open Larry's Place, a veterans shelter, and plans to move Sage House, a residential drug treatment program, were delayed, according to SMOC's claims.

In doing so, SMOC alleges, the town violated federal housing laws and discriminated against the disabled.

In court yesterday, a gaggle of lawyers - about 10 representing town officials and at least three representing the social service hub SMOC - argued the merits of their claims for a little more than two hours at a motion to dismiss the hearing at the John Joseph Moakley U.S. Courthouse.

Sage House, located at 517 Winter St., opened last fall about 28 months after SMOC had bought the property, SMOC Executive Director James Cuddy said yesterday.

The permit for Larry's Place, which would be at 90 Lincoln St., was issued within the last 10 days, said Cuddy.

The future of that house, however, remains uncertain since federal and state funding, secured in 2004, may no longer be available, Cuddy said.

"The core of it is you got what you wanted, ultimately," said federal Judge Douglas P. Woodlock of the outcome of the two projects yesterday.

Heidi Nadel, SMOC's attorney, argued that the various town officials named in the suit used their power to execute a "pre-conceived agenda" against SMOC.

The town officials' plan, she said, was to "delay, delay, delay," and hope expenses piled up so that the plans would eventually fall apart.

Critics of SMOC's case say its claims trample freedom of speech rights and essentially strip town officials of the ability to self-govern.

Ultimately, Woodlock took a number of the motions under advisement, while denying four motions to dismiss. Those four cited the Massachusetts anti-SLAPP suit law. That measure, which stands for Strategic Lawsuits Against Public Participation, protects those who speak out against developments in a public forum.

Woodlock rejected those motions, saying the anti-SLAPP grounds, which each relied on, did not apply in the current case.

The defendants who had applied for such a dismissal - Selectman Laurie Lee, Town Meeting members Steven Orr, Cynthia Laurora and Peter Adams - still have different motions to dismiss the case on the table that Woodlock took under advisement.

Other defendants' motions to dismiss, including those of Selectmen Dennis Giombetti, Ginger Esty and Jason Smith; Town Manager Julian Suso, Planning Board members Carol Spack, Sue Bernstein and Andrea-Carr Evans; Human Services Coordinator Alexis Silver; and former Planning Board member Ann Welles were taken under advisement.

While the organization is seeking damages in the case, SMOC officials said the amount of such damages had yet to be determined.

*(Dan McDonald can be reached at 508-626-4416 or [dmcdonal@cnc.com](mailto:dmcdonal@cnc.com).)*

Copyright © 2008 GateHouse Media, Inc. Some Rights Reserved.

Original content available for non-commercial use under a [Creative Commons license](#), except where noted.