

Homeowners lose dorm fight

By JACKIE KLEIN

A group of irate Southfield homeowners have lost their last-ditch legal fight to halt construction of Lawrence Institute of Technology's (LIT) nine-story student housing facility.

Michigan Court of Appeals recently turned down the bid of 50 residents of Tamarack Trails subdivision to knock down the nearly completed dormitory on the south side of Ten Mile between Evergreen and Lahser.

Since last July, when area homeowners took the city, LIT and contractor A.J. Elkin to Oakland County Circuit Court, bulldozers have continued to work on the 14-acre parcel to make way for the 142-unit student housing structure. The building is almost ready for occupancy.

Oakland County Circuit Judge James Thorburn, who heard the homeowners' case attacking the constitutionality of Southfield's zoning procedures, last summer suggested the matter should be under the jurisdiction of the appellate court. Thorburn then indicated the dormitory could be torn down if the city's zoning measures were ruled to be illegal.

RESIDENTS MAINTAINED they weren't personally notified of the 1968 rezoning of the LIT property from its single-family residential classification to allow the high-rise use. Tamarack homeowners based their lawsuit on a 1976 Michigan Supreme Court decision that a newspaper reference is insufficient to notify property owners of impending zoning and land use changes, according to subdivision association president David Silverman.

Residents appealed to the Michigan Court of Appeals last June seeking damages as well as to restrain LIT from building the dormitory. Homeowners asked the trial court to find Southfield's zoning ordinance amendment unconstitutional as it related to the university property. The court last month ruled Southfield's zoning notice provisions constitutional.

Tamarack homeowners had also asked the appeals court to declare Michigan's Zoning Enabling Act invalid because it doesn't require mailed notices of zoning board hearings to interested persons about proposed zoning amendments. The state act provides for local leg-

islative bodies to establish by ordinance how zones shall be determined, enforced, amended or changed, according to the appeals court ruling.

THE ACT requires public hearing notices on rezonings to be published in the official newspaper in a city not less than 15 days in advance.

"We have been unable to find any Michigan case dealing with challenges to these provisions," the appellate court's decision reads. "In the case cited by the homeowners' attorney, the court ruled that notice by publication of tax foreclosure proceedings was inadequate for real property owners."

"In the Tamarack case, residents' interests concern adjoining and neighboring property owners. This is less significant because nearby land owners have no vested interest in zoning classifications."

"Although we agree that newspaper notice is not the type of notice which would inform the greatest number of people, any step requiring individual mailed notifications should be taken up by the legislature, not this court."

Southfield homeowners in the Ten Mile and Lahser area were unable to bring down the walls of the LIT dorm. (Staff photo)

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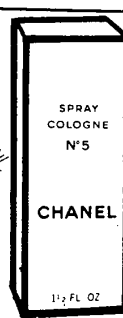


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