

# Courts will rule on group homes

**By Marie Chestney**  
staff writer

The placement of group homes for the mentally ill and mentally retarded — an issue which one state official said affects every citizen in the state — will be argued for the first time in April before the Michigan Supreme Court.

Up until now, the court has turned down every attempt by Michigan communities to have the state's highest court rule on the placement of mentally retarded and mentally ill adults in foster care homes.

On Dec. 6, the court broke that tradition. It agreed to hear appeals filed by Livonia and Southfield in their attempt to block group homes in their communities. Sometime in April, three appeals filed by Livonia and one appeal filed by Southfield will be argued together before the court.

If the two cities lose, said Livonia city attorney Harry Tatigian, "it will put the entire issue to bed once and for all."

The cities, Tatigian said, would have to honor an agreement made between them and the state's attorney general

that whatever the court decides would apply in communities across the state.

"And if we win, we anticipate and expect the attorney general to honor this agreement," he added.

If the state should lose, said James Quigley, director of adult foster care licensing for the Michigan Department of Social Services (DSS), the loss would affect those 24,000 adults now in foster care homes throughout Michigan and would raise now questions on where to house the state's mentally retarded.

"This is a matter of interest to every person in the state," Quigley said. "What alternatives do these people have if the cities win? What are the financial consequences to the state?"

COMMUNITIES across Michigan have filed lawsuits against group homes ever since the state first started licensing them in the late 1970's. But the cities have had little success in the courts.

Both Tatigian and Quigley believe the state has the edge in winning these four appeals.

"Remember, our batting average except for the one time an administrative judge agreed with us has been zero," Tatigian said. "That was the first time we ever won anything. Anytime you are an appellate where you have had three lower court judges rule against you and two Michigan Court of Appeals panels rule against you, it's uphill. But if granted a leave to appeal, you have to think in terms of 'having a chance.' The court usually affirms the decision of the court of appeals. The odds are two to one against us, but we are still alive."

Quigley said the state was not worried about losing. "Lower court decisions have fallen in favor of our department," he said. "There is no reason to believe the higher court will see it any differently."

LIVONIA'S appeals are for homes on Stanmoor, Ellen Drive and Pickford and involve mentally retarded adults. The Southfield suit was filed by the Greentrees Civic Association and involves mentally ill adults.

William Bastringer, assistant attorney general who will be arguing the cases, said the court might have selected these four because they "encompass all of the issues raised for either the mentally retarded or the mentally ill."

Tatigian said he was surprised at the court's decision to hear the cases. "I was surprised they granted us this leave because they turned down everyone else up to this time."

He said he would argue before the court all the issues placed before the appellate courts. But he said he would lay heavy emphasis on one, which was the one small victory the city had in going through the court system.

This was when an administrative court judge agreed with Livonia that the procedure of a city having to go before an administrative court judge to fight group homes was unfair.

"Our best argument is against the entire administrative law judge procedure," Tatigian said. "It was a kangaroo proceeding and the administrative judge agreed with us. He disagreed with our other arguments but said the procedure was unfair. The judge works for the DSS."

Tatigian said the city would question the unfairness of the court procedure and the unfairness of allowing the DSS to overturn an administrative judge's ruling.

IF THE CITIES should win, Quigley said the court's ruling would settle only those issues raised in the four lawsuits. "Any issue not raised in the lawsuit may be raised."

In rejecting arguments made by Livonia previously, the appellate court ruled that developmentally disabled persons are "clearly eligible" to live in small adult foster care homes.

The court stated that the foster homes had not broken subdivision deed restrictions, as charged by the city and homeowners who were party to the suit.

It rejected the city's and homeowners' claim that "mentally ill" persons should be barred from small group homes. The court said the issue wasn't relevant because the homes were targeted for mentally retarded, not mentally ill, residents.

## Clarification

The story on an energy conservation open house in the Monday, Dec. 15, issue gave the incorrect date for the event.

The Page 4A story said the open house would be from 10 a.m. to 2 p.m. Saturday at the East Middle School. The open house was Monday, Dec. 12.

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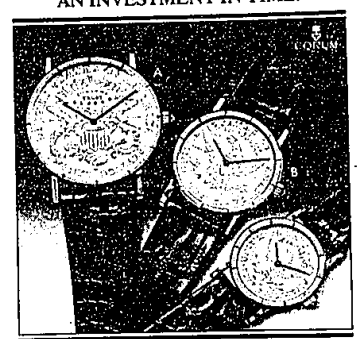
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