

## Exhibit 1

which previously enjoyed a special exemption from normal overview by the Planning Board.

## July 2005

**July 30:** The MetroWest Daily News published "Anger's not the answer" based on an editorial board meeting with leaders of the social service industry: Jim Cuddy of SMOC, Eric Masi of Wayside, and Bill Taylor of Advocates. The article prompted a flood of criticism and [STEPPS issued a response](#).

**July 27:** The ten members of the PILOT commission have been named. Congratulations to Cynthia Laurora of STEPPS, Nicholas Sanchez (Republican candidate for state rep last fall), Bob Berman, Kurt Steinberg, Wes Ritchie (an aide to Rep. Tom Sannicandro), James Palmer, and town meeting members Steve Orr, Dawn Harkness, Laurie Lee, and Yaakov Cohn. [Learn more about this PILOT Commission](#).

**July 18:** [Read our response](#) to SMOC's "Dear Resident" letter.

**July 13:** SMOC applied for a change of use so that they can turn 517 Winter Street into a drug rehab shelter, claiming it will be an "educational" facility eligible for protection from town zoning laws. We disagree and plan to ask the town to deny the change. If they approve it, we will appeal.

**July 12:** SMOC has finally admitted what we already knew in a [Letter to Residents](#) dated July, 2005: they have purchased 517 Winter Street and plan to move the Sage House into it, housing 12-15 drug addicted women with their children. The Board of Selectmen opened a warrant for a special Town Meeting on August 3 to amend the Town bylaws to require site plan review for Dover applicants.

**July 4:** Read our [Crime in Framingham](#) page and learn about the link between violent crime and substance abuse clinics.

**July 1:** The sale of 517 Winter Street to SMOC became official on June 15. The sale price was \$2 million. A sharp eyed STEPPS member [scanned in the notice from a trade journal](#).

## June 2005

**June 9:** Town Meeting voted almost unanimously to form a committee to investigate the impact of social services on Framingham and to investigate a plan to provide for Payment in Lieu of taxes (PILOT) from tax exempt entities. In a separate motion, they voted overwhelmingly for a resolution that stated it was the will of Town meeting that there should be a moratorium on new social service facilities until the PILOT committee's report had been finalized and acted upon. [MORE>](#)

**June 7:** Jordan Levy ran a segment on the siting of halfway houses in Worcester on his radio show on WTAG 580 AM. Jordan served as Mayor of Worcester for eight years and while Mayor, he was part of the Associated Press award winning Mayor's Forum. He joined WTAG following his decision not to seek a fifth term as mayor. He has numerous awards from the Associated Press and was voted favorite talk show by Worcester Magazine readers. Governor Paul Cellucci appointed Jordan to the three member Massachusetts Turnpike Authority. [Listen to the show \(MP3\)](#).

**June 6:** STEPPS held a community meeting chaired by David Westwater and Precinct 11 Town Meeting member Ted Cosgrove and attended by Rep. Debby Blumer, Selectman John Stasik, several Town Meeting members, and over a hundred concerned residents. We also finished collecting over 300 signatures on a petition calling on Town Meeting to take action against the overconcentration of social service facilities in Framingham.

## May 2005

**May 29:** The MetroWest Daily News printed Mary Westwater's speech in the form of a [letter to the editor](#).

**May 22:** STEPPS held a neighborhood meeting where we settled on the name STEPPS. We learned that SMOC is a huge corporation with many properties in Framingham. We discussed the amount of taxpayer money that is being absorbed to support these facilities, along with the strain that is put on our police, fire, ambulances, school and medical facilities, without any tax contribution from the SMOC facilities or their clients. We also learned that most SMOC clients come from other towns and discussed local towns' right vs. the [Dover Amendment](#). The STEPPS web site was started with this initial information.

**May 17:** STEPPS made its first official appearance, then just a group of concerned neighbors, asking the Board of Selectmen for help in the public participation session before their meeting. STEPPS founding member [Mary Westwater](#) spoke about our concerns and gave the Board a list of questions we had regarding the sale. We learned that this was far bigger than just Winter Street, and STEPPS was formed to address townwide and statewide issues. The Board of Selectmen eventually answered the questions we asked, but most of the answers were unsatisfactory. It appeared the Town had no real control over planning and zoning.

**May 16:** The first public mention of the 517 Winter issue that sparked the creation of STEPPS was made on the [Frambors mailing list](#), following the quintessential neighborhood moment of neighbors gathering in the street to discuss neighborhood issues. Concerned neighbors abutting the Framingham Nursing Home at 517 Winter Street learned that SMOC had secretly bought the property and were planning to turn it into a homeless drug rehab shelter.

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Have a comment, correction, or suggestion? [Write to the webmaster!](#)

## Exhibit 2

DATE: May 27, 2005  
TO: The Framingham Board of Selectmen  
FROM: STEPPS (Stop Tax Exempt Private Property Sprawl)  
RE: 517 Winter St. Property Sale to SMOC  
(South Middlesex Opportunity Council)

As residents of Framingham, and neighbors of the Framingham Nursing Home on 517 Winter St., we collectively object to the purchase of this property by SMOC. Considering that SMOC is a private agency which likely intends to make this into a facility for drug addiction rehabilitation and a homeless shelter, and their focus also encompasses alcohol rehabilitation, shelters for battered women, centers for prisoners re-entering society and several other types of social rehabilitation centers, we have the following objections to the purchase of this property by SMOC:

1. Framingham currently has more SMOC facilities than any of the other towns in the Metrowest area combined. Framingham has over 80 facilities and all of the Metrowest area towns combined do not exceed the number of our SMOC properties.
2. SMOC is a non-profit organization, and therefore does not pay taxes to the town of Framingham. We, the Framingham taxpayers are paying to support the clients of SMOC. We already have to pay separate charges for our children to ride school buses and participate in school sports and activities. We should not be responsible for paying for the clients of SMOC, who may come from other towns, to attend our schools and participate in school activities.
3. Our town police, fire, ambulatory and hospital services are frequently responding to calls at current SMOC facilities. The property at 517 Winter St. currently houses up to 42 residents. Depending on the nature of SMOC's plans for this property, the number of residents could increase. This will only put a higher demand on our police and fire departments, with no increase in funds to support that demand or hire additional forces.
4. Within 1/10<sup>th</sup> of a mile from 517 Winter St., is an elderly assisted living facility, (please see attached letter from the Executive Director of that facility which houses 230 Framingham residents). Several of these units are separate from the main building, and have no security. We feel that a residence housing drug addicts, former prisoners, or the homeless could pose a serious safety risk to the elderly residents of this assisted living facility.
5. The only entrance to 517 Winter St. is in the rear of the building which is actually on Ardmore Rd. There are currently elementary and middle school bus stops on either end of Ardmore Rd. We do not want our children exposed to or put at a safety risk by the residents of this facility.
6. There are generations of families in this neighborhood who have worked hard to preserve this area as a safe place to raise future generations. We will not tolerate anything that may increase crime in our neighborhood and jeopardize our families' safety, or our efforts to preserve this part of Framingham.

Purchase of Framingham Nursing Home by SMOC  
Page 2

The residents and taxpayers of Framingham have a right to determine how our taxes are spent, and how many non-profit facilities can be supported by our town resources.

We have several questions:

1. Is the sale of 517 Winter St. pending, or has this sale closed?
2. What type of facility is SMOC proposing for this property?
3. What percentage of Framingham residents occupies the existing SMOC facilities?
4. If the occupants of the SMOC facilities in Framingham are from other towns, should we be collecting money from those other towns to support their residents while they are residing in Framingham?
5. What are the criminal histories of the residents we will have living in our town?
6. How many Level 1, 2 or 3 sex offenders are now living in Framingham, and how many will be transferred here as a result of SMOC's accommodations for them in the future?
7. What type of security can we expect at SMOC's facility in our neighborhood?
8. Will the residents be allowed to come and go at will?
9. Will there be any protection for the residents of our neighborhood?
10. What kind of protection will be provided to our children at the bus stops on either end of Ardmore Rd.?
11. What type of protection will the residents of the elderly assisted living facility at Summerville at Farm Pond on Dr. Harvey Cushing Way have? Will they be easy victims for those residents with bad intentions?
12. How many children who reside in SMOC facilities are we supporting in the Framingham community? The average amount to support a child through school system (without special needs) in Framingham is \$8,237.00. How many have special needs, and what is the cost to support them?
13. The property at 517 Winter St. currently only has access from Ardmore Rd. Is there a plan to provide access from Winter St.?
14. Does SMOC and the Town of Framingham do background checks on the employees of such a facility that might exist in our neighborhood?
15. What is the cost of the increase in our taxes to support the demand of fire and police departments, ambulance and medical services, along with school resources required to take care of all of the out-of-town residents that have come to Framingham to take advantage of SMOC services?
16. SMOC has apparently increased their purchase of properties in Framingham from 63 to 81 in the last 2 to 3 years. That is more than a 25% increase. Are we becoming SMOCINGHAM? Where is their contribution to the community? Are they paying for another 25 policemen, firemen and teachers to support the influx of residents?
17. We would like to know how many people have died by unnatural causes in SMOC residences in Framingham in the last 10 years.

Purchase of Framingham Nursing Home by SMOC  
Page 3

18. What is the cap on how much of taxpayers' money can be used to support people from other communities?

We would like to know when the influx of SMOC facilities stops. ENOUGH IS ENOUGH. We would like our taxes to be applied to pay for things like our children's bus rides to school, or the sports and activities they'd like to participate in, or toward the betterment of Framingham for the taxpaying residents who live here.

We would like to request a meeting with the Board of Selectmen and the Town Meeting Members of Precinct 11, along with the executive directors of SMOC to discuss all of these issues and questions.

Please respond to our requests either by email to [STEPSORG@comcast.net](mailto:STEPSORG@comcast.net), or by contacting David and Mary Westwater at 508-872-5827.

STEPS (Stop Tax Exempt Private Properties Sprawl)

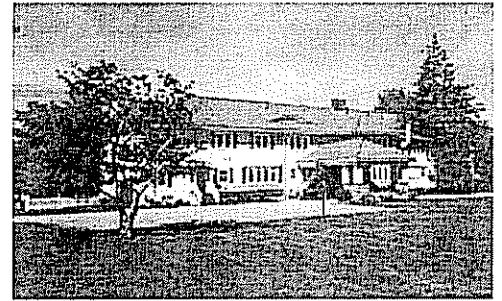
## Exhibit 3

# STEPPS **Stop Tax Exempt Private Property**

**Home Issues Links Join**

## *Issues Surrounding Tax-Exempt Property Sprawl*

On May 27, 2005, STEPPS -- then in its infancy -- presented a list of questions to the Board of Selectmen regarding the implications of SMOC's purchase of 517 Winter Street. On July 9, we received the Selectmen's responses, which represented a great deal of effort and for which we are very grateful. Unfortunately, they were unable to answer many of the questions, since only SMOC had the information and they were unavailable to respond. Feel free to read the response from the town ([Download 812 KB PDF](#)) or browse these other, more detailed, topics. Also be sure to keep track of the progress of the Framingham PILOT Study Committee, which was created partly out of concern for the issues STEPPS raised last summer.



*Will SMOC turn this lovely historic property on a quiet residential street into a homeless drug rehab shelter?*

### **Issues discussed:**

- [SMOC facility at 517 Winter Street](#)
- [Wayside Facility on Lockland Avenue](#)
- [Property Taxes and Property Values](#)
- [Downtown Revitalization](#)
- [Crime in Framingham](#)
- [Basic Fairness / Concentration of social services in Framingham](#)
- [Quality of Life Issues](#)
- [The Dover Amendment](#)
- [Fire Department](#)
- [Schools](#)

### **SMOC facility at 517 Winter Street**

The former Framingham Nursing Home at 517 Winter Street (see map, right) is located in a quiet residential neighborhood near Tercentennial Park. SMOC has bought it and is planning to turn it into a homeless drug rehab shelter.

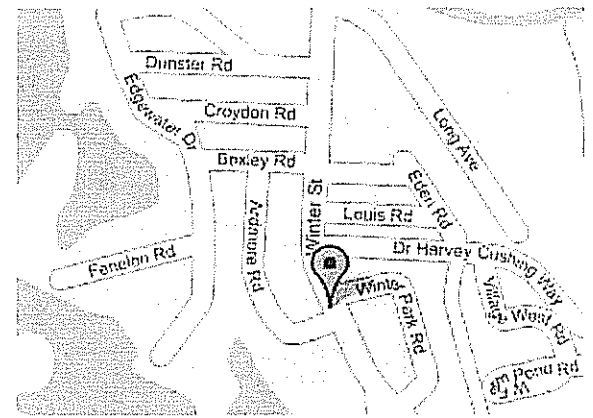
There are a number of major problems with this proposal:

- [517 Winter Street](#) is a historic property.
- Putting a homeless drug rehab shelter on the property would have a major impact on our most valuable



investment, our property values.

- It could potentially threaten our homes' security and our personal safety.
- The location is just blocks from an assisted living facility with little security.
- The location is just blocks from Tercentennial Park, which the town is spending a great deal of money on.
- The location is less than a mile from the Barbieri Elementary School.
- While the address is 517 Winter Street, the only entrance is on Ardmore Road. There are currently elementary and middle school bus stops on either end of Ardmore. We do not want our children exposed to, or put at a safety risk by, the residents of this facility.
- Neither Ardmore Road nor Winter Street is large enough to handle additional traffic brought by a large facility.



Map of the area around 517 Winter Street

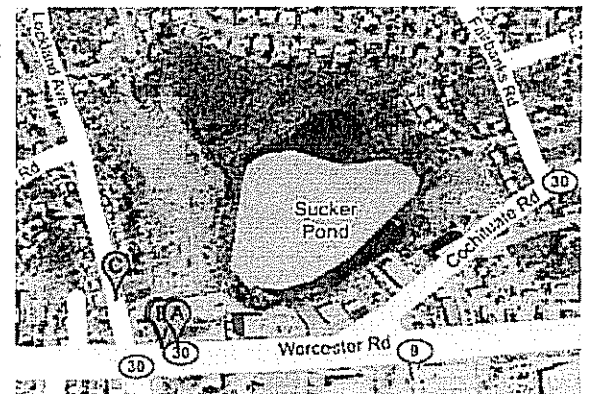
Click image for full-size view or navigate at [Google Maps](#)

Changes to this property could have a devastating effect on hundreds of families.

## Proposed Wayside facility on Lockland Avenue

Wayside wants to build a huge 70+ bed facility on Lockland Avenue, a small, residential neighborhood near Sucker pond that already has more traffic problems than it can handle. As usual, the Dover Amendment was used to force this facility through with little or no input from neighbors, the Planning Board, or the Zoning Board.

More information coming soon -- in the meantime, please visit the [Sucker Pond Neighborhood Association web site](#).



Map of area around proposed Wayside facility on Lockland Ave.

Click image for full-size view or navigate at [Google Maps](#)

## Property Taxes

Framingham, Massachusetts is becoming the center of non-profit services in Massachusetts. The South Middlesex Opportunity Council is the largest, with 81 properties, many of them tax exempt, with a total assessed value of \$15,966,000 and a total of 451 units.

When a nonprofit agency purchases a property, it no longer pays taxes to the town, and we as taxpayers pick up the tab. As an example, if the sale of the Framingham Nursing Home at 517 Winter Street goes through, its property taxes of \$23,265 (assessed value of \$733,700.00 at a rate of 31.71 per thousand) will disappear from the town rolls -- and be replaced by higher taxes on other Framingham property owners!

(You can see this information at [http://frambors.syslang.net/SMOC\\_properties.html](http://frambors.syslang.net/SMOC_properties.html) or download it as an Excel spreadsheet at [http://frambors.syslang.net/SMOC\\_properties.xls](http://frambors.syslang.net/SMOC_properties.xls))

But this is only part of the issue. Facilities like these negatively affect property values. One study done by a real estate agent found that homes in a 5/8 mile radius of a facility like the SMOC shelter had lost 15% of their value, and the closer they were, the more value they had lost. If the 285 homes within 5/8 of a mile of 517 Winter Street average a 15% loss in property values, that would cost the town almost **\$2 million** in

lost revenue from property taxes!

For more information on this, see our page [Effects of social service facilities on residential property values](#).

## Basic Fairness

Framingham has far more than its share of nonprofit organizations offering services in the area. Consider, for example, the number of SMOC units in Framingham compared to other towns:

Town	SMOC units	Population	Units per thousand
<b>Framingham</b>	<b>451</b>	<b>66,910</b>	<b>6.73</b>
Marlborough	74	36,255	2.06
Natick	24	32,170	0.75
Waltham	11	59,226	0.19
Ashland	18	14,674	1.29
Worcester	16	172,648	0.09
Hudson	28	18,113	1.56

As you can see, Framingham has far more units in relation to its population than comparable areas.

For more detailed information, see "[Framingham Bears Undue Burden](#)."

## Quality of Life Issues

Social service agencies do more than simply meet a need: they attract people who need their services. The [wet shelter](#) in downtown Framingham has **attracted** a large number of new people needing its services, causing many problems. (See, for instance, "[Hearing Stacked for SMOC](#)")

What's more, concentrating many people with problems together does not help them re-integrate with society, it creates a feedback loop. Thus, problems are not solved, or even added to arithmetically, they grow exponentially. Unfortunately, Framingham seems to be caught in such a feedback loop -- problems are increasing while the tax base is shrinking.

## The Dover Amendment

The Dover Amendment is the common name for Massachusetts General Law (MGL) Chapter 40A, Section 3, which exempts religious and educational entities from many zoning restrictions. There are clear restrictions on use, e.g.

such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. Lands or structures used, or to be used by a public service corporation may be exempted in particular respects from the operation of a zoning ordinance or by-law if, upon petition of the corporation, the department of telecommunications and energy shall, after notice given pursuant to section eleven and public hearing in the town or city, determine the exemptions required and find that the present or proposed use of the land or structure is reasonably necessary for the convenience or welfare of the public;

Massachusetts courts consistently ruled in favor of nonprofits over municipalities, citing the overly vague wording in the Dover Amendment.

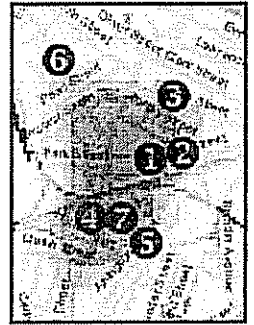
Read the [Dover Amendment](#) and our [Dover Amendment FAQ](#).

Learn more about how to help change the Dover Amendment on our [How to Help](#) page.

## Crime

Framingham has a growing problem with violent crime in the downtown area, and it is concentrated in a small area bounded by social service facilities such as the wet shelter and the methadone clinic.

For more, see our page [Crime in Framingham](#).



## Fire Department

Steve Orr posted a report from the Fire Department on resource consumption by SMOC: "You and I hardly ever have reason to call on the Fire or Police Department but it's really nice to know that they're there when we need them. And they're not cheap -- the average cost when you factor everything in for one call of the Fire Department is very likely in the \$800+ region. An ambulance alone is about \$500 these days. Maybe, just maybe, we need to see about getting reimbursed for excessive use of our Public Safety services.

"Here's a report on the number of calls made by our Fire Department for SMOC owned properties broken down by month starting with Jan '04. (Please note that this report only accounts for SMOC and does not take into account other Human Social Service providers usage.)"

### Year Month Count

2004	01	30
2004	02	32
2004	03	24
2004	04	25
2004	05	35
2004	06	19
2004	07	31
2004	08	30
2004	09	60
2004	10	26
2004	11	21
2004	12	24
2005	01	23
2005	02	42
2005	03	31
2005	04	26
2005	05	35

### 514 Total Count

Despite Steve's caveats, it is clear that agencies like SMOC and Wayside use town resources at a far greater rate than most taxpaying entities (for instance, after , yet they pay less to the town than citizens who rarely use them.

## Schools

Harold Wolfe of the Framingham Taxpayers' Association has posted an analysis showing cumulative cost of educating just 25 children SMOC will bring to Framingham to live in the Sage House if it is moved to 517

Winter Street: **over \$6 million** over twenty years. How many non-Framingham schoolchildren are living in tax-exempt properties being educating at others' expense?

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Have a comment, correction, or suggestion? [Write to the webmaster!](#)

## Exhibit 4

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## steveo's Home Server

[Message Index for 200506](#), sorted by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))[Previous message](#), by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))[Next message](#), by... ([Author](#)) ([Date](#)) ([Thread](#))

From "Peter C.S. Adams" &lt;adamsp@cs.umb.edu&gt;

Subject Re: wet shelter and SMOC

Date Fri, 03 Jun 2005 12:22:17 -0400

[Part 1 text/plain US-ASCII (1.2 kilobytes)] ([View Text in a separate window](#))

Thus spake Kevingatli@aol.com &lt;Kevingatli@aol.com&gt;, circa 6/2/2005 10:36 PM:

> As to providing more information to the neighbors when they are purchasing  
> new real estate, I think it is obvious to anyone reading these posts that not  
> everyone feels the process is so wonderfully open as Mr. Feingold suggests and  
> that Ellen's question should not be dismissed so lightly

I think TMM Ted Cosgrove summed up this "openness" best when he said he learned about the sale after the fact in the MWDN. He said the scary part was that he is so connected -- he attends Town Meeting, he's on the planning/zoning committee, etc. -- but was caught TOTALLY off guard.

SMOC has offered to meet with the neighbors, but this happened only AFTER they finalized the sale agreement, planned their use of the property, and -- most important -- saw how many of us showed up at the BOS meeting to protest.

If it hadn't been for the "rumor mill" and some sharp neighbors on Ardmore, we would have learned about this when the buses arrived to drop off homeless drug addicts.

So much for "openness."

peter

--

Peter Adams, STEPPS webmaster  
<http://www.makingpages.org/STEPPS>  
"Enough is enough"

[Message Index for 200506](#), sorted by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))[Previous message](#), by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

## Exhibit 5

Subject: [STEPPS] Concentration of SMOC

- > We in Framingham have been following with great interest the on-going
- > hearings hosted by the Mayor's Task Force on Social Service Agencies
- > in the City of Worcester.
- >
- > Framingham is facing many of the same issues Worcester and Millbury
- > are confronting.
- >
- > In late May, the South Middlesex Opportunity Council (SMOC) secretly
- > made arrangements to purchase the Framingham Nursing Home at 517
- > Winter Street, an active 42 bed nursing home in a residential area,
- > and now intends to convert it into a homeless drug rehabilitation
- > shelter.
- >
- > Despite its claims of wanting to be a good neighbor and wanting to
- > hold a dialog with residents, SMOC never discussed its plans with the
- > town government or residents, either before the sale or after. The
- > only reason that these arrangements were discovered was because the
- > employees of the nursing home began seeking employment at surrounding
- > nursing homes. When the nursing home owner was contacted by a
- > neighborhood resident, the owner made the statement that no one was
- > supposed to know about the pending sale.
- >
- > SMOC was then contacted by the neighborhood and confirmed that they
- > were purchasing the nursing home; however, they refused to state what
- > it would be used for.
- >
- > The Town Manager of Framingham and Board of Selectmen were asked about
- > the pending sale of this nursing home and stated that they were not
- > aware of this pending purchase nor were they consulted.
- >
- > It was then learned through a check of the Town of Framingham
- > Assessors Department records that SMOC owned 81 properties in
- > Framingham with a total assessed value of roughly \$16 million dollars.
- > Many of these properties were tax-exempt and therefore not responsible
- > for paying taxes to Framingham, although they were still eligible to
- > receive town services, such as police, fire, ambulance, trash pickup,
- > and public education.
- >
- > SMOC, in their annual report for FY 2004, states that they own or
- > lease a total of 60 residential and commercial properties in
- > Framingham for a total of 523 units in a town with approximately
- > 66,000 residents. According to the same annual report, SMOC owns 5
- > properties consisting of 148 units in Worcester, which has
- > approximately 173,000 residents. Framingham hosts an incredibly high
- > concentration of the 1,181 total units that SMOC owns statewide, both
- > by number and percentage, and the remaining 510 units are spread among
- > only 15 other communities. There is clearly a problem with these
- > statistics, and Framingham has much more than its share of social
- > services, as does Worcester.

SMOC has publicly stated that there is nothing that anyone, including

- > the government of the city or town they are targeting, can do to
- > prevent them from moving into a neighborhood, and anyone who says



> otherwise is providing "false hope" to that neighborhood.

>

> The covert manner in which SMOC operates, hiding behind the shield of

> a private party transaction and the cover of the Dover Amendment has

> led to a crisis that we as a community must immediately bring under

> control, with the support of our State Senators and State

> Representatives.

>

> The Commonwealth of Massachusetts, which can, by eminent domain, take

> property from the public or private sector for the good of the

> Commonwealth, at least contacts neighbors and local governments to

> inform them of planned changes and holds public hearings for input on

> these projects.

>

> SMOC adheres to none of these practices exhibited by the Commonwealth,

> even though it is funded by the Commonwealth.

>

> SMOC was asked to appear at a meeting of the Framingham Board of

> Selectmen to explain their plans for 517 Winter Street, but we were

> told that James Cuddy, SMOC's executive director, and Jerry Desilets,

> SMOC's director of planning, both had family commitments on the

> evening of the meeting. Mr. Cuddy supposedly also had another family

> commitment for the first hearing before the Worcester Mayor's Task

> Force on June 15. Perhaps this a coincidence, but it smacks of

> arrogance to fail to appear before the governments of these two

> municipalities.

>

> On June 9th, the Framingham Town Meeting voted almost unanimously to

> create a 10-member committee to study the effect that social service

> agencies have had on Framingham and to study the prospect of

> establishing a Payment in Lieu of Taxes (PILOT) program. The same Town

> Meeting also overwhelmingly passed a resolution to place a moratorium

> on any new social service projects in Framingham until that study was

> complete and the PILOT program decided upon. Worcester's city council

> voted on a similar measure a few weeks ago.

>

> Since these motions passed, SMOC has taken ownership of 517 Winter

> Street and is planning a similar shelter in Worcester.

>

> We are counting on the support of all of our elected representatives:

> Mayors, Selectmen, Senators, and State Representatives, to support the

> interests of their constituents and implement these resolutions as

> quickly as possible.

>

> Although the voices of Framingham and Worcester were clearly stated by

> these votes, SMOC was firm in their position that any PILOT programs

> to pay fees in lieu of taxes would be voluntary and at their

> discretion.

>

> SMOC's leadership has a definitive arrogance in their response to any

> government entity that questions their business practices, including

> citing residential properties they purchase, or requests to have them

> appear before various governmental bodies to answer questions that

> cities or towns have concerning their operations.

>

> Framingham is not the only community that is facing major issues with

> SMOC's continued practice of purchasing properties unannounced, then

> bringing in clients from other communities to fill these shelters.

> There are several recent news articles which cite problems in

> Worcester and Millbury. Here are just a few of the highlights:

>

> 1. Worcester Telegram, 6/13/05: State Senator Harriette Chandler

> removed \$200,000 from the state budget which was earmarked for one of

> SMOC's programs, because SMOC was not forthcoming with details of the

> program.

>

> 2. Worcester Telegram, 6/14/05: State Rep. Robert P. Spellane,

> D-Worcester, was quoted as saying "no social service program should be  
> located in Newton Square. It's a bad location" and "it's got nothing  
> to do with being on the West Side of the city," noting the proximity  
> of the proposed shelter to three schools and a public park.

>  
> 3. Worcester Telegram, 6/15/05: Millbury is also having similar  
> problems. Here is a recent quote from one of their Selectmen: "SMOC is  
> considering expanding its operations in the Town of Millbury and it  
> didn't have the courtesy of informing the board of the changes it is  
> planning to make," said Selectman Joseph F. Coggans, Jr. "Mr. Coggans  
> suggested that Town Manager Paul J. Guida write a stern letter on  
> behalf of the selectmen to SMOC. Selectman Michael O. Moore went one  
> step further and asked that Mr. Cuddy attend the July 12 Selectmen's  
> meeting to personally explain plans for the Rhodes Street Women's  
> Cooperative".

>  
> 4. Worcester Telegram, 6/16/05: Sandra Katz, president of the  
> Worcester Property Owners Association, called on the social service  
> agencies to accept the moratorium on new programs until the task force  
> finishes its job. She said the state should pass a law similar to the  
> one that mandates that every community provide its share of affordable  
> housing.

>  
> 5. The Boston Globe, 6/16/05: Words from SMOC: "We think there's a lot  
> of misinformation being spread, a lot of vitriol," said Jim Cuddy,  
> executive director of the South Middlesex Opportunity Council.  
> "There's a lot of rhetoric and a lot of anti-SMOC rhetoric. But when  
> you sift through it, what we see is it's coming from a very small  
> number of people," said Cuddy. "And we strongly believe that there are  
> many people in the community who understand the nature of nonprofits,  
> who fully support SMOC and its mission in the community."

>  
> We don't believe that the majority of citizens in our communities  
> oppose nonprofits, but obviously there are more than a "very small  
> number of people" who oppose such high concentrations of nonprofits in  
> their communities and the lack of rights we have to stop the continued  
> influx. We feel enough is enough, and we are relying on our elected  
> officials to take immediate action to preserve our communities from  
> further nonprofit sprawl.

>  
> If cities and towns are mandated to accept affordable housing  
> thresholds, why isn't there a similar threshold on the percentage of  
> nonprofit tax exempt properties that can be taken off the tax rolls in  
> one community? We want Framingham's and Worcester's town, city and  
> state officials to support and implement the motions that were passed  
> by their City Council and Town Meeting Members immediately. The people  
> have spoken, and they agree that a moratorium would be the best action  
> for our town officials to take.

>  
> On a larger scale, the towns and cities that are experiencing this  
> common problem need to band together and address it at the state  
> level. We hope that all of you have heard us loud and clear and that  
> your responses will be indicative of immediate action to be taken. We  
> look forward to your responses. Thank you.

>  
> Respectfully,

>  
>  
> Janice Skelley, on behalf of STEPPTS, (Stop Tax Exempt Private Property  
> Sprawl)  
> Please visit our website at [www.STEPPTS.info](http://www.steppts.info) <<http://www.steppts.info/>>  
> Tel.: 508-626-2223  
> Email: [j.skelley@comcast.net](mailto:j.skelley@comcast.net)

```
> STEPPS mailing list  
> STEPPS@makingpages.org  
> http://makingpages.org/mailman/listinfo/stepps\_makingpages.org  
>
```

## Exhibit 6



## steveo's Home Server

Message Index for 200506, sorted by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))  
Previous message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))  
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From "Peter C.S. Adams" <adamsp@cs.umb.edu>  
Subject Re: SC ruling  
Date Sat, 25 Jun 2005 13:29:49 -0400

[Part 1 text/plain US-ASCII (2.3 kilobytes)] ([View Text in a separate window](#))

Thus spake Weaders@aol.com <Weaders@aol.com>, circa 6/25/2005 10:27 AM:  
> This is NOT correct. The Town collects the Prop 2-1/2 levy limit in any  
> case, but the other taxpayers have to pay more.

Thanks for the correction, Dick. I will change this to read "If the property  
is removed from the tax rolls, that means they pay less, but the town  
doesn't lose, because YOU will make up the difference."

> Obviously, less than \$7 shouldn't be the cause of all the excitement on  
> this issue, so something else is going on.

Of course. Taxes are a small part of the equation. Neighbors are more  
worried about increased crime and decreased property values. Do you doubt  
that Framingham property values have suffered compared to our neighbors?  
Just ask around! Acton residents now use the slogan "We don't want to be  
another Framingham"! And you should hear the train conductor when he  
announces "Bee-YOO-tiful downtown Framingham"! Property values are largely  
about perception -- like consumer confidence -- and the image of Framingham  
is BAD. Isn't crime up in downtown Framingham? And haven't we downsized the  
police force?

But what's worse is the arrogance SMOC shows. Just Friday, in the Framingham  
Tab, Gerry Desilets was talking again about what a "good neighbor" they are  
and how they would never "just let new programs crop up in neighborhoods in  
the area without sitting down and talking to neighbors about it first."

Who does he think he's fooling, aside from a naive reporter? SMOC \*never\*  
approached neighbors on Winter Street or Ardmore Road -- in fact, they asked  
the seller to keep their arrangement \*secret\*! They make a point of telling  
reporters that they are willing to discuss neighbors' concerns, but they  
never say that they failed to appear when requested to do so by both the  
Framingham Board of Selectmen \*and\* the Worcester City Council. They are  
\*not\* good neighbors.

SMOC and other social service agencies are not the cause of all of  
Framingham's problems. Indeed, we don't know how much they contribute to our

4ajordomo at syslang.net: archive-get-part

problems. That's why I was so encouraged that Town meeting finally agreed to  
PILOT committee. I think Town Meeting Members simply decided that enough  
/as enough -- and we have SMOC and their arrogance to thank for that.

peter

-  
Peter Adams, STEPPS webmaster  
http://www.stepps.info  
Enough is enough"

Message Index for 200506, sorted by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Previous message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Next message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

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## steveo's Home Server

1

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From "Steven W. Orr" &lt;steveo@syslang.net&gt;

Subject Re: Winter Street drain on the tax base. (fwd)

Date Sat, 21 May 2005 11:00:38 -0400 (EDT)

[Part 1 text/plain US-ASCII (5.1 kilobytes)] ([View Text in a separate window](#))

I received the following message from someone I know who would prefer not using hir name here for reasons that are stated below. It's passionate, articulate and inciteful and I'd like to give you all the opportunity to read it. It's longer than three paragraphs, but I hope you'll read it anyways. If you read this and would like to help, please let me know.

--

steveo at syslang dot net TMMP1 <http://frambors.syslang.net/>  
Do you have neighbors who are not frambors?

----- Forwarded message -----

Date: Fri, 20 May 2005 22:51:19 EDT

From:

To: steveo@syslang.net

Subject: Re: [frambors] Winter Street drain on the tax base.

Hello Steve,

I would appreciate you keeping this to yourself concerning the recent postings regarding the 517 Winter St. purchase by SMOC. If you do pass this along, I urge you to post it anonymously because I would like to keep my employment with the town. I have enjoyed reading the various postings made from both sides of the coin on diverse issues but I feel strongly in sending this to you. I am writing about the recent posting concerning the sale of the Framingham Nursing Home to Mr. Cuddy and his organization.

All have made extremely valid points and as usual, the Town is powerless against this giant because as authors have stated, the Town doesn't lose, just the taxpayers. Our taxes increase with every purchase that SMOC makes, our costs to the education budget increase with every student enrolled who now list their home as Framingham (and a tremendous amount of so called clients are not from Framingham - they just enjoy these so called "free" services Mr. Cuddy makes available to anyone literally in the United States) and the neighborhoods receive serious quality of life issues and home depreciation at the same time. A home and mortgage is the most major investment any person can make but with the secrecy of

<http://frambors.syslang.net/cgi-bin/>

10/21/2007



confidentiality clauses in purchase and sale agreements, it is typically too late for homeowners to speak out and appeal to SMOC. And the worst part of this giant is they don't pay a dime to offset the costs they have incurred to we the taxpayers.

I personally feel that SMOC has contributed to the entire downfall of Framingham by bringing other communities problem people to our town for the mere sake of assisting SMOC to sustain themselves. If we were to be caring for the townspeople of Framingham, I would be the first lined up to help. But the people that SMOC delivers to our town are not Framingham people, they are not desirable people and they are from area's well outside of here and also from out of state.

Perhaps it is time to send a strong message that enough is enough. With all of the neighbor complaints about the various SMOC properties, SMOC knows with no questionable doubt that they have created havoc in the town and its budget due to the costs associated with increased taxes, vocal opinions by town management calling for override after override for repair of our basic roadways and underground utilities such as water and sewer just to name a few.

I would love to know whether we can hold SMOC liable for the destruction of the town budget where we as taxpayers have suffered. We have now had our property taxes increased, our children charged money for simply riding the school bus to school, our older students paying for parking just for driving their cars to school, our school athletes paying more money for having the pride to represent Framingham and Framingham High School because of SMOC induced infiltration. We now have sex offenders calling their SMOC residences home where they are unknown to most residents, convicted criminals now in town where they are also unknown. Don't be fooled by what Mr. Cuddy has brought to our town. With the 60 some odd properties Mr. Cuddy's organization stated they owned as of 2002 and the other properties his organization has purchased since then, it is time to introduce Mr. Cuddy to Framingham residents. It is time for the people of Framingham to rise to recoup what has been lost due to Mr. Cuddy's organization.

SMOC is a multi, multi million dollar organization just in owned "charitable" Framingham property alone that needs to be taken to task for what they have done to this town and more importantly, the tax paying residents of this once great town. Town government, if the other authors are correct, don't become affected because they can't stop them from buying these properties and we the taxpayers have the bill to foot for Mr. Cuddy's looting of our checkbooks.

I truly believe that it is time for Framingham residents to grab hold of their bootstraps, become educated in SMOC's entities and take some decisive action to end this downward spiral before we become so inundated by Mr. Cuddy that, as Mrs. Westwater called it, we change all of the town signs to "SMOCingham".

Bottom line, are there any lawyers who think we, as town residents and town residents only, have a potential class action lawsuit to recoup our losses based on the dynasty of Mr. Cuddy's group destruction to my bank

Thank you for being discreet in this note.

Message Index for 200505, sorted by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Previous message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Next message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

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## Exhibit 8

Stop SMOC  
[www.smocingham.org](http://www.smocingham.org)

Ripped from the STEPPS site.

This guy clearly has remarkable clarity of thinking, whoever he is.

Here's two responses to his remarks...

Response 1

Response 2

STEPPS took this anonymous letter off their web site but I liked it so much, I posted it. Anonymous viewpoints should be heard.

To: STEPPS  
From: (anonymous)  
Re: Framingham Nursing Home  
Date: May 25, 2005

I have enjoyed reading the various postings made from both sides of the coin on diverse issues but I feel strongly in sending this to you. I am writing about the recent posting concerning the sale of the Framingham Nursing Home to Mr. Cuddy and his organization.


All have made extremely valid points and as usual, the Town is powerless against this giant because as authors have stated, the Town doesn't lose, just the taxpayers. Our taxes increase with every purchase that SMOC makes, our costs to the education budget increase with every student enrolled who now list their home as Framingham (and a tremendous amount of so called clients are not from Framingham -- they just enjoy these so called "free" services Mr. Cuddy makes available to anyone literally in the United States) and the neighborhoods receive serious quality of life issues and home depreciation at the same time. A home and mortgage is the most major investment any person can make but with the secrecy of confidentiality clauses in purchase and sale agreements, it is typically too late for homeowners to speak out and appeal to SMOC. And the worst part of this giant is they don't pay a dime to offset the costs they have incurred to we the taxpayers.

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Send comments to:  [hjw2001@icn.com](mailto:hjw2001@icn.com)

**Stop SMOC**  
[www.smocingham.org](http://www.smocingham.org)

## Exhibit 9

**Stop SMOC**  
**[www.smocingham.org](http://www.smocingham.org)**

**[smocingham.org](http://smocingham.org) is NOT affiliated with STEPPS**

**SMOC facilities costs Framingham taxpayers millions**

**Signs available**

**Stop  
SMOC**

**[www.smocingham.org](http://www.smocingham.org)**

**[SMOC Executive Committee](#)**

**[SMOC's 2004 Annual Report](#)**

### **The South Middlesex Opportunity Council (S.M.O.C.)**

The South Middlesex Opportunity Council (SMOC) is a private fund raising, fund giving organization that interacts with the Town of Framingham. It's offices are at **300 Howard Street** in Framingham. It's executive director is **Jim Cuddy**.

If it is like any charitable institution, about 90% of the funds acquired thru federal/state grants and charitable contributions will be spent on SMOC itself. The rest gets spent on the needs of the people it supposedly serves. It seems to have lofty goals of helping the poor, but since it is a private enterprise, we know very little about its funding.

It had been buying land in Framingham only because Framingham was the last bastion of affordability. You and I now know that this concept has changed over the last 5 years.

SMOC creates a nice atmosphere for the state's drug addicts, alcoholics and the mentally ill in downtown Framingham by centralizing its services to help them. If you're a drug addict, an alcoholic, mentally ill, or homeless this is as close as you're going to get to Nirvana.

In May, 2005, SMOC chose to buy a nursing home and open a wet shelter for drug addicts right smack dab in the middle of a residential neighborhood at **517 Winter Street, Framingham, MA 017** effectively devaluing the entire neighborhood.

The drug addicts will bring their children with them and these children will be placed in the Framingham Schools at taxpayers expense. We expect to have up to 25 children placed in our schools, at the average annual cost of \$10,000 each per year, or \$250,000 each and every year.

This nursing home was a commercial property but when SMOC makes it a **wet shelter**, it will be tax exempt. In essence, we the Framingham taxpayers lose four or more ways.

- we lose the commercial taxes that the nursing home used to pay.
- we are burdened in our schools with these children that come from other communities.
- the neighborhood valuations take a plunge in real estate values.
- we get more drug addicts/alcoholics moving into Framingham.

I say SMOC should open a few wet shelters around 102 Warren Road where **Jerry Desilets** lives. Let's see how fast his neighborhood can tar and feather him.

SMOC should also open a few wet shelters near 67 Moore Avenue, Warren, MA 01083 where **James T. Cuddy** lives.

Send comments to:  [hjw2001@rcn.com](mailto:hjw2001@rcn.com)

**Stop SMOC**  
[www.smocingham.org](http://www.smocingham.org)



## Exhibit 10

# SMOC

SOUTH MIDDLESEX OPPORTUNITY COUNCIL  
*Organizing Resources for Social Change and Economic Independence*

Main Office 300 Howard Street · Framingham, MA 01702 508-620-2300 FAX 508-620-2310

June, 2005

COPY

Dear Resident:

We write to directly address the issue of the property located at 517 Winter Street in Framingham, known as the Framingham Nursing Home. We are sending this letter to all residents who can be considered abutters of this property. Unfortunately, there have been a significant amount of rumors and fears bordering on what we consider to be hysteria regarding what is happening to this property. It is our intention to clearly communicate what is going on in the hope that this can lead to a respectful dialogue about the intended use of the property. SMOC intends to acquire this property. The property is under contract and we expect to assume ownership by the end of this month. It is our organization's intent to relocate the Sage House program, which currently operates in another Framingham neighborhood, to this site. Sage House is a residential, educational program for families funded by the Commonwealth of Massachusetts. Families generally reside at Sage House for a period of between 6-9 months, completing the program and then moving into independent living.

We have been absolutely bewildered by the vitriol and negativity associated with the rumors regarding our organization's actions and intent. While we understand that a number of mission-related activities that SMOC is involved in are controversial and difficult from a community acceptance perspective (programs like the Common Ground Overflow Shelter located in downtown Framingham and the South Middlesex Detoxification facility, which has subsequently closed), there are many mission-related activities that the organization is involved in where there are no community acceptance issues (our Meals on Wheels and Elderly Nutrition Program, our Head Start and Day Care programs). Frankly, we believe Sage House, a family program, falls into that category. As previously mentioned, Sage House has operated in another residential neighborhood for 15 years. It is very similar to our Pathways program, which recently relocated from one neighborhood in Framingham to Edgell Road, when the organization purchased a

building that had previously been utilized as a Level III Rest Home. Sage House is very similar to our Medway House program, which operates in a facility purchased in 1999, in a residential neighborhood in Medway. There have never been any community issues associated with these programs.

It was always our intent to meet with interested neighbors to discuss the program and to address any issues or concerns. This is what we did with Pathways when we moved it, this is what we did with Medway House when we opened it, and this is what we do with any supported housing program that the agency either opens or relocates. We would still welcome the opportunity to engage in that kind of dialogue in this situation.

Therefore, let us attempt to be clear about how we are willing to proceed in addressing any issues or concerns that you may have.

- We are willing to respond to phone calls to address any questions or concerns.
- We are willing to sit down in a quiet respectful way in one of your homes or at the 517 site once we acquire it to address any questions or concerns.
- We are not willing to meet in a public forum.
- We are not willing to engage in a vitriolic, adversarial meeting.
- We are not willing to engage in a discussion about whether or not we have the right to do this. Frankly, Sage House, as are all of our supported residential program, are protected by Chapter 40B of the Massachusetts State Law, and the Federal Fair Housing Act. There is ample case law that supports this position.
- We want to clear state our intent to be good and responsible neighbors.
- We will maintain the building and the grounds, which is a commitment we make to every neighborhood in every community where we own property. The building will look good, the grounds will be landscaped and the building will be maintained.

We sincerely believe that the only changes you will observe will be that, instead of ambulances pulling up to the entrances of 517 Winter Street, school buses will pick up and drop off children who are either attending our Head Start program or the Framingham School System. Additionally, instead of observing elderly residents relaxing on the deck or in the solarium, you will observe children in supervised play in a fenced-in playground area. We pledge to be responsible, thoughtful and respectful neighbors.

In closing, we want to reiterate the central message that we are attempting to communicate in this letter, namely, that our organization pledges to be a thoughtful, respectful and responsible neighbor.

Sincerely,

James T. Cuddy  
Executive Director

Jerry Desilets  
Director of Planning & Community Services

/sls

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Message Index for 200505, sorted by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Previous message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Next message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

From "Steven W. Orr" <[steveo@syslang.net](mailto:steveo@syslang.net)>

Subject We are not alone

Date Mon, 30 May 2005 12:07:35 -0400 (EDT)

[Part 1 text/plain US-ASCII (1.4 kilobytes)] ([View Text in a separate window](#))

[http://www.boston.com/news/local/articles/2005/05/29/newton\\_group\\_sees\\_ways\\_city\\_could\\_save\\_some\\_cash/](http://www.boston.com/news/local/articles/2005/05/29/newton_group_sees_ways_city_could_save_some_cash/)

or

<http://tinyurl.com/a27hk>

**NEWTON GROUP SEES WAYS CITY COULD SAVE SOME CASH:**

A group of residents and local officials unveiled a plan last week to show how they say Newton could generate new revenue and save money without new fees, fee increases, or service cuts

The 36-page report recommended establishing a municipal power company, building a citywide wireless Internet access network, improving cash and investment management, and establishing payment in lieu of taxes for tax-exempt properties owned by health, education, religious, charitable, and federal and state organizations.

...

This was on page 16 of yesterday's Globe West.

This is exactly what so many of us are talking about.

A recap of goals:

Short term:

Stop the Health Clinic on 135. It is in direct conflict with not only the neighborhood but also the downtown revitalization. We just voted for the TIFF agreement to help the Arcade project. We can't have it both ways.

Stop SMOC from going forward with 517 Winter St.

<http://steveo.syslang.net/cgi-bin/>

10/16/2007

Long term:

Allow the town to recoup losses from the taxes and excessive consumption of public safety resources.

--

steveo at syslang dot net TMMP1 <http://frambors.syslang.net/>

Do you have neighbors who are not frambors?

Message Index for 200505, sorted by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Previous message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

Next message, by... ([Author](#)) ([Date](#)) ([Subject](#)) ([Thread](#))

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## Exhibit 12



**BOARD OF SELECTMEN  
MEETING MINUTES  
THURSDAY, JUNE 2, 2005  
ABLONDI ROOM**

**Attendance:** Katherine E. Murphy, Chair; Charles J. Sisitsky, Clerk; A. Ginger Esty, Member; Dennis L. Giombetti, Member

**Staff:** Mark J. Purple, Assistant Town Manager; Matthew A. Romero, Executive Assistant

The Chair called the meeting to order at 7:00 PM and reviewed the agenda

Public Participation

*William LeBarge*

Mr. LeBarge commented on his dissatisfaction with the changes to traffic flow at the intersection of Concord Street, Waverly Street and Irving Street, and asked if they could be reconsidered. Ms. Esty explained that the changes were not correct, and suggested that the Highway Department look into the matter further.

*Ahsan Lari*

Mr. Lari spoke about construction in Framingham, listing various incidents that he had noticed in Town. Ms. Murphy suggested that he meet with Mr. Purple to discuss the issue in greater depth. Mr. Lari also commented that he had had trouble when he had walked into the office and tried to meet with the Town Manager. Ms. Esty wondered if the process for obtaining street opening permits was no longer being followed. Mr. Sisitsky responded that he knew that the Department of Public Works (DPW) was very strict in its policy for granting street opening permits. Ms. Esty asked about pole relocations, and Mr. Sisitsky explained that utilities were not obligated to inform the Town if a pole was being relocated within a few feet. However, he said the Board might be able to deny the utility's requests for permits until they correct problems that they had done in the past, such as repairing residents' damaged property or landscaping. Mr. Giombetti wanted to know what Verizon's policy was to check up on their contractors' work after it was performed.

Consideration of a request to increase hours on Sundays for a Common Victualer License for Desmond O'Malley's (30 Worcester Road)

The regional district manager for Classic Restaurant Concepts d/b/a Desmond O'Malley's and Mr. Jason Brady, Assistant General Manager for Desmond O'Malley's were present to discuss the request. The request to increase hours on Sundays was to provide brunch and no alcohol would be served before noon. Mr. Giombetti asked about the advertisements he had seen for the brunch already and was informed that the signs did not denote a start time, but advertised that brunch was served until 3:00 PM.

MOVED: To approve the request to increase hours on Sundays for a Common Victualer License for Desmond O'Malley's.

Motion: Mr. Sisitsky

Second: Ms. Esty

VOTE: 4 – 0

Consideration of Danforth Memorial Building 53 E ½ Request for Increase

Mr. Purple summarized the memo submitted to the Board, explaining that the Director of Building Services, Mr. Jim Egan, had delineated higher heating and operational costs for the Danforth Building. The 53 E ½ account had a ceiling of \$40K, which could not be exceeded unless the Board and the Finance Committee jointing vote to increase the limit. Mr. Richard G. Howarth, Jr., Acting CFO, had recommended that the Board vote to increase the limit from \$40K to \$55K for FY 2005 to cover the increase anticipated for these increased costs. Mr. Purple clarified for Mr. Sisitsky that the fund covered both the Danforth and the Memorial Building, and that the amount requested reflected the increases for both buildings. The additional expenditure would be covered by additional revenue generated by the revolving account.

MOVED: To increase the spending limit of the Danforth Memorial Building 53 E ½ to \$55K consistent with the Acting CFO's recommendation.

Motion: Mr. Sisitsky

Second: Ms. Esty

VOTE: 4 – 0

Consideration of a request to name a square (Mayo/Collins Square)

Ms. Mary Murphy read a summary of the request to name the square at the intersection of Edgell Road and Oak Street as the Mayo/Collins Square, in honor of Ms. Louise Parker Mayo and Ms. Josephine Collins who were jailed for picketing for suffrage for women during the presidency of Woodrow Wilson. Mr. Sisitsky wanted to confirm that the correct process was followed, and asked if the Planning Board (PB) needed to be involved, or if it required a public hearing. Ms. Mary Murphy admitted she was unsure as well. She pointed out that Mr. Egan and Mr. Bob Merusi, Director of Parks and Recreation, had overlapping but differing jurisdiction over the plot. She had also been told that the DPW might have the jurisdiction. Mr. Sisitsky and Ms. Esty confirmed that the DPW would not be involved. Mr. Sisitsky suggested referring the matter to Town Counsel to ensure that the correct process would be followed. Mr. Purple informed the Board that Town Counsel was looking into the matter already with regard to Tercentennial Park.

Consideration of a letter to the state legislators relative to sex offenders

Ms. Esty read her motion and reviewed the information she had submitted for proposed legislation with regard to sex offenders. Mr. Sisitsky stated that having had time to review the material submitted by Ms. Esty he was in support of her motion.

MOVED: That the Board request the governor, state representatives and state senator to support and/or sponsor a bill and/or an amendment to a bill, which would allow the law enforcement officials to place the ankle bracelets currently approved for Level III offenders on any unregistered offenders.

Motion: Ms. Esty

Second: Mr. Sisitsky

VOTE: 4 – 0

Conference with Stop Tax Exempt Private Properties Sprawl) STEPPS

Ms. Mary Westwater was present to discuss the concerns of STEPPS and reviewed a list of concerns and questions with regard to tax exempt private properties in the Town.

Ms. Cynthia Laurora explained that she enjoyed the ethnic and socioeconomic diversity in the Town, and the Town's commitment to help the disadvantaged. However, she felt that there was too high a concentration of social service entities in the Town.

Mr. Ted Cosgrove, Town Meeting Member Precinct 11, also spoke on behalf of STEPPS's concerns. He was concerned that even though he was very involved in Town government he had been unaware of the project until he had read an article in the local newspaper. He requested the support and resources of the Town in this matter. He suggested formulating PILOT agreements and forming a Citizen's Action Committee.

Dr. Harold Silverman read a prepared statement concurring with STEPPS's concerns.

Ms. Patty Cohen commented that Framingham was beginning to be viewed in a negative light by other communities due to the amount of SMOC facilities in the Town.

Ms. Janice Skelley asked when the questions in the letter sent to the Board would be addressed. Ms. Murphy explained that the Board would look at all of the questions and would respond to as many as they could as quickly as possible. Mr. Sisitsky warned the residents that the Board's answers could be limited. Ms. Murphy asked if STEPPS was planning on meeting with SMOC. Mr. David Westwater answered that STEPPS had informed SMOC that it would only meet at an official Selectmen's meeting. Ms. Esty recounted past experiences with SMOC in which the Board's concerns and wishes had not adequately been met. Mr. Giombetti pointed out that the neighborhood's request to have SMOC to come in to address this issue specifically was a separate issue from the social services summit the Board had already called. Mr. Sisitsky noted that much of the issue lay with the state and federal agencies that provided funding, and provided relief like PILOTs. Mr. Sisitsky commented that he did not believe that this particular facility fell under the provisions of the Dover Amendment. In response to a comment by Ms. Esty, Mr. Sisitsky clarified for the record that while his name had been listed on the SMOC website as a member of their Board of Directors, he had never been on their Board of Directors.

Ms. Skelley stated that the purchase and sale agreement would be closing within a few days, and wondered what caveats could be imposed on the agreement. She pointed out that it was an historical site and wondered if that gave the Town any leverage. She also questioned how property could be bought and removed from the tax rolls by non-profit organizations.

Mr. Steve Orr opined that there was a level of entrenchment of SMOC in Framingham, as demonstrated by listing an elected official on its Board of Directors without his or her knowledge or consent. He felt that the policy of the Town could affect the taxes in the Town.

Mr. Peter Adams asked that the Board rescind support of the Advocates grant that had been voted a couple of weeks prior.

Ms. Westwater asked for the Town's assistance in investigating the zoning and what the property could be used for. Mr. Giombetti suggested investigating the process and find out what permits would be needed by SMOC to continue the process.

Dr. Silverman suggested contacting OSHA to inspect the property.

#### Town Counsel update – Estoppel Certificate for 100 Crossing Boulevard

Mr. Christopher J. Petrini, Town Counsel, gave an overview of the information that had been provided to the Board. Mr. Peter Barbieri recounted a brief history of the situation. He explained that in a deal involving such a large amount of money a request of an Estoppel Certificate was very typical. Mr. Petrini explained some of the limited due diligence he had performed to confirm that there were no known issues related to the property. He did not believe there were any environmental problems with this property, despite the site being a former landfill. Town Counsel recommended signing the Estoppel Certificate. Ms. Esty reminded the Board that she had been a commissioner during some of the time being discussed, and she gave an overview of the history of the site. She asked about the restrictions on the property for not building. Mr. Petrini believed it was included in the landfill agreement. Mr. Barbieri responded to Ms. Esty's comments the terms of agreement for buildable areas, non-buildable areas, and open space. Mr. Petrini acknowledged that while he had not conducted any environmental studies as part of his due diligence, he was recommending that the certificate be signed, in large part due to past documentation and agreements. Mr. Sisitsky recalled that the landfill had not been closed properly and the capping of the landfill by the developer had been a good deal for the Town at the time.

MOVED: To sign the Estoppel Certificate for 100 Crossing Boulevard in accordance with Town Counsel's recommendation.

Motion: Mr. Sisitsky

Second: Ms. Esty

VOTE: 4 – 0

#### Selectmen's Goals

Ms. Murphy and Mr. Giombetti informed the Board that progress was being made and a report was hoped to be made the following week.

#### Selectmen's Reports

##### *Mr. Sisitsky*

Mr. Sisitsky had attended the DPW Director's presentation about the water and sewer systems, which was very well done. Mr. Sisitsky reported the highlights of the presentation to the Board.

##### *Mr. Giombetti*

Mr. Giombetti had attended the Resiliency for Life luncheon that was very well done. He would be going with Ms. Kathy Bartolini to a meeting with the state the following week to lobby for the Arcade TIF

*Ms. Esty*

Ms. Esty expressed concern over the condition of sewer pipes. Ms. Murphy suggested asking the DPW Director to come in for an update. Ms. Esty asked if the request for a TIF committee had been passed along to the Planning Department, and Mr. Purple told her he would confirm that the Planning Department was aware of the request. Ms. Esty told the Board about the Memorial Day service, and asked that proper flag retirement protocol be looked into. Ms. Esty asked to look into the specifications of the Framingham Common. Mr. Purple agreed to bring an update to the Board. Ms. Esty had attended a meeting of the new Secretary of Transportation and the discussion of combining the MHD and the MTA.

*Ms. Murphy*

Ms. Murphy had also attended the Resiliency for Life lunch. She announced the concerts on the green for the summer that would begin shortly. Ms. Murphy noted that Mr. Tom Harris, Director of the Museum, was leaving and wished him well.

Ms. Murphy asked the Board's preference on the letter of support the Board had granted to Advocates the week before in view of the earlier discussion with STEPPS. Mr. Sisitsky felt that this situation was very different from the Winter Street matter, and also that to rescind the grant would be unfair at that point in time.

Ms. Esty returned the discussion to the tax free properties and suggested focusing on the appropriate non-profit taxes. Ms. Murphy suggested discussing the matter the following week. Mr. Sisitsky suggested submitting the entire letter to SMOC for its review.

MOVED: To adjourn.

Motion: Ms. Esty

Second: Mr. Giombetti

VOTE: 4 - 0

Respectfully submitted,

Charles J. Sisitsky, Clerk

## Exhibit 13

<b>Group blasts SMOC's growth</b>	<b>Friday, June 3, 2005</b>
<b><u>David McLaughlin</u> 508-626-4338</b>	<b><u>Metrowest Daily News</u></b>

FRAMINGHAM -- Neighbors of a Winter Street nursing home packed the selectmen's meeting room last night to continue their crusade against plans to turn the building into a shelter for recovering drug addicts.

About 60 residents attended the board's meeting last night to protest the South Middlesex Opportunity Council's purchase of the Framingham Nursing Home at 517 Winter St. The agency's proposal, they say, will be disastrous for their neighborhood.

"I'm afraid for the safety of my neighborhood, and I want to know what kind of guarantee they can give me that we will be safe," Mary Westwater said.

Westwater and others have formed a group called Stop Tax Exempt Property Sprawl. They argue in part that Framingham has taken on far more than its share of social service agencies compared to other communities. And as nonprofits snatch up properties, they complained, homeowners are shouldering a heavier tax burden.

"You're breaking the middle class," Cynthia Laurora told the board.

Patti Coen told the board that Acton residents fighting a SMOC plan to buy a property there have adopted the slogan: "We don't want to be another Framingham." Coen said that she was "embarrassed" and "hurt" when she heard that.

"We're hardworking people. We're good people," she said. "I feel the same. Enough is enough. It's time for other communities to step up as well."

SMOC officials have declined comment for weeks about whether they are buying the nursing home. SMOC Planning Director Gerard Desilets could not be reached for comment yesterday, but Westwater told selectmen that Desilets said this week the agency was close to completing a deal to buy the building.

According to Westwater, Desilets said the nursing home will be the new location for Sage House, which provides an intensive, six- to nine-month residential drug treatment program for homeless families.

The neighbors asked selectmen for their support and submitted a three-page letter to the board outlining their concerns. They also want to meet with SMOC officials and selectmen during a board meeting to talk about the agency's plans for the nursing home.

Selectmen Chairman Katie Murphy cautioned that the board could not force SMOC to attend a meeting. But Selectman Dennis Giombetti said it could "put a strong burden on them to be here." The board, he said, should also be "more rebellious" with social service agencies.

The neighborhood, residents argued, deserves the chance to weigh in on the agency's plans. Town Meeting member Ted Cosgrove said SMOC is "subverting the whole public process." He went on to complain that he first learned about its plans by reading an article in the Daily News.

"I'm reading about it in the newspaper, and that's what scared me the most," he said.

---

Send comments to:  [hjw2001@rcn.com](mailto:hjw2001@rcn.com)

**Stop SMOC**  
[www.smocingham.org](http://www.smocingham.org)



## Exhibit 14



TOWN OF FRAMINGHAM  
Massachusetts  
Office of the  
TOWN COUNSEL  
Christopher J. Petrini

Town Office:  
Office of the Town Counsel  
Memorial Building  
150 Concord Street; Room 127  
Framingham, MA 01702  
(508) 620-4802  
Facsimile (508) 620-5910  
E-mail: [cpetrini@framinghamma.org](mailto:cpetrini@framinghamma.org)

Framingham Office:  
Petrini & Associates, P.C.  
The Meadows  
161 Worcester Road, Suite 304  
Framingham, MA 01701  
(508) 665-4310  
Facsimile (508) 665-4313  
E-mail: [cpetrini@petrinilaw.com](mailto:cpetrini@petrinilaw.com)

MEMORANDUM

To: Board of Selectmen

From: Christopher J. Petrini  
Town Counsel

cc: George P. King, Jr., Town Manager  
Steven B. Carl, Police Chief  
John W. Grande, Planning Board Administrator  
Joseph Mikielian, Building Commissioner

Date: July 8, 2005

Re: 517 Winter St.—Lists of Questions dated by 5/31/05 Presented by STEPPS

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I am in the process of preparing a detailed memorandum that addresses several of the key zoning-related questions affecting the acquisition of 517 Winter Street by South Middlesex Opportunity Council ("SMOC") and Dover Amendment-protected uses generally. I anticipate that this memorandum will be ready for issuance and distributed on or before July 18, 2005.

With the understanding that a detailed memorandum is forthcoming, I have been asked to review the list of questions submitted by STEPPS on or about May 31, 2005, and to respond briefly as to my knowledge regarding the questions raised. Please note that even though I do not have knowledge on several of the questions raised by STEPPS, it is possible that other town officials or division heads (including the Building Commissioner, Police Chief and the Planning Board Administrator) may have more direct knowledge on one or more of the questions raised by STEPPS and they should be consulted directly to the extent necessary. Where we have spoken with other town officials in connection with the question at hand, I have noted this fact in connection with the particular question raised.

Question 1: Is the sale of 517 Winter St. pending, or has this sale closed?

July 8, 2005

Page 2

**Answer 1:** Information on the website for the Middlesex (South) Registry of Deeds indicates that SMOC purchased the premises on June 15, 2005 for the sum of \$2,000,000. A copy of the Quitclaim Deed recorded on this date is attached hereto.

**Question 2:** What type of facility is SMOC proposing for this property?

**Answer 2:** We do not yet know what type of facility SMOC is proposing. According to the Building Commissioner, no applications or requests for a building permit have been made or filed to date.

**Question 3:** What percentage of Framingham residents occupies the existing SMOC facilities?

**Answer 3:** I have no information to respond to this question. Only SMOC would be able to answer this question.

**Question 4:** If the occupants of the SMOC facilities in Framingham are from other towns, should we be collecting money from those other towns to support their residents while they are residing in Framingham?

**Answer 4:** There is no statutory or legal means of which we are aware to require the collection of monies or taxes from other municipalities for services provided to their residents by SMOC. Please note that my forthcoming memorandum will address the Payment in Lieu of Taxes ("PILOT") program utilized by the City of Boston in connection with certain non-profit entities. You also can obtain additional information on PILOT Programs from the Town Assessor.

**Question 5:** What are the criminal histories of the residents we will have living in our town?

**Answer 5:** I assume that this question refers to the criminal histories of residents likely to move to 517 Winter Street when SMOC makes its program at this location operational. Assuming I understand the question correctly, I have no information to respond to this question. Only SMOC would be able to answer this question.

**Question 6:** How many Level 1, 2 or 3 sex offenders are now living in Framingham, and how many will be transferred here as a result of SMOC's accommodations for them in the future?

**Answer 6:** I do not know the number of sex offenders that presently reside in Framingham. I believe the Police Department is required by state law to maintain information on this topic. As to the numbers of sex offenders that may be transferred to Framingham as a result of SMOC's programs in the future, I have no information to respond to this aspect of the question. Only SMOC would be able to answer this question.

**Question 7:** What type of security can we expect at SMOC's facility in our neighborhood?

**Answer 7:** I have no information to respond to this question. Only SMOC would be able to answer this question.

**Question 8:** Will the residents be allowed to come and go at will?

**Answer 8:** I have no information to respond to this question. Only SMOC would be able to answer this question.

**Question 9:** Will there be any protection for the residents of our neighborhood?

July 8, 2005

Page 3

**Answer 9:** I presume the Police Department will provide the police protection that will be required. As to the particular security operations that may be implemented by SMOC for 517 Winter Street, I have no information to respond to this question. Only SMOC would be able to answer this question.

**Question 10:** What kind of protection will be provided to our children at the bus stops on either end of Ardmore Road?

**Answer 10:** See Answer to Question 9, which is incorporated herein by reference.

**Question 11:** What type of protection will the residents of the elderly assisted living facility at Summerville at Farm Pond on Dr. Harvey Cushing Way have? Will they be easy victims for those residents with bad intentions?

**Answer 11:** See Answer to Question 9, which is incorporated herein by reference.

**Question 12:** How many children who reside in SMOC facilities are we supporting in the Framingham community? The average amount to support a child through [the] school system (without special needs) in Framingham is \$8,237.00. How many have special needs, and what is the cost to support them?

**Answer 12:** I have no information to respond to this question. I suggest that this question be referred to either the School Department or SMOC, or both, for response.

**Question 13:** The property at 517 Winter St. currently only has access from Ardmore Rd. Is there a plan to provide access from Winter St.?

**Answer 13:** The Town at this juncture does know what access SMOC will seek for the property. See also Answer to Question 2, which is incorporated herein by reference.

**Question 14:** Does SMOC and the Town of Framingham do background checks on the employees of such a facility that might exist in our neighborhood?

**Answer 14:** The Town has a right of access granted by the Criminal History Systems Board to conduct Criminal Offender Record Information ("CORI") checks of town employees and certain volunteers with access to youth. The Town has no general right to conduct CORI checks of employees of private organizations such as SMOC. If SMOC so desires, it can apply for the right to conduct CORI checks with the Criminal History Systems Board of its employees or volunteers who may have access to youth. I do not know if SMOC presently conducts CORI checks of its employees or whether it has applied for the right to do so.

**Question 15:** What is the cost of the increase in our taxes to support the demand on fire and police departments, ambulance and medical services, along with school resources required to take care of all of the out-of-town residents that have come to Framingham to take advantage of SMOC services?

**Answer 15:** I do not have information to respond to this question. It is possible that the Assessors Office and the Assistant Chief Financial Officer may be able to provide information or analysis pertinent to this question.

July 8, 2005

Page 4

**Question 16:** SMOC has apparently increased their purchase of properties in Framingham from 63 to 81 in the last 2 or 3 years. That is more than a 25% increase. Are we becoming SMOCINGHAM? Where is their contribution to the community? Are they paying for another 25 policemen, firemen and teachers to support the influx of residents?

**Answer 16:** In some of the information provided on SMOC by state agencies, it appears that SMOC has identified Framingham as its major service area. See also Answer 15, which is incorporated herein by reference. The remaining aspects of Question 16 pertain to policy issues or political questions that need to be answered by the community at large or by SMOC in particular.

**Question 17:** We would like to know how many people have died by unnatural causes in SMOC residences in Framingham in the past 10 years?

**Answer 17:** This question should be referred to the Town Clerk, who maintains records of death certificates for all deaths in Framingham.

**Question 18:** What is the cap on how much of taxpayers' money can be used to support people from other communities?

**Answer 18:** The state has established under its authority that non-profit organizations are tax exempt. There is no "cap" on the use of taxpayers' money to support the activities of these organization in particular communities of which we are aware. State law controls this issue and the Town is largely without authority to regulate it. As will be described in my forthcoming memorandum, we can request non-profit organizations to participate in a PILOT program, but such participation would be voluntary on their part.

### CONCLUSION

Please let me know if you need any further information or clarification of the information I have provided in this memorandum. Thank you.

*2005.07.08 Memo to BOS re STEPPS' Questions (600-109)*

## Exhibit 15

Joe R. Mikielien

*Prepare Report to  
JM*

From: Matthew A. Romero  
Sent: Monday, June 20, 2005 11:01 AM  
To: Joe R. Mikielien  
Cc: George P. King, Jr.  
Subject: 517 Winter Street

Hi Joe,

Attached are the concerns submitted to the Selectmen by the STEPPS group re: 517 Winter Street. The Board asked that you look at the questions and concerns and answer any you could answer. Also, Selectmen Giombetti asked that you provide a list of permits that the Town would issue prior to the establishment of a new facility (building permit, cert. of occ., etc.) and any regulatory control the Town might have over the facility. Also, he asked that the Board be made aware if they tried to apply under the Dover Amendment as an "educational" facility.

Thanks,  
Matt

06/20/2005

David estwater

From: "Janice Skelley" <j.skelley@comcast.net>  
To: "David estwater" <Wh2o@rcn.com>  
Sent: Saturday, May 28, 2005 9:38 AM  
Subject: FW: Letter from Summerville

Best Regards,

*Janice*

Janice Skelley  
Tel: 508-626-2223  
Cell: 508-277-6043  
j.skelley@comcast.net

-----Original Message-----

From: Triplett, Jim [mailto:triplett@sslusa.com]  
Sent: Tuesday, May 24, 2005 2:12 PM  
To: j.skelley@comcast.net  
Cc: Cobb, Granger  
Subject: STEPPS

Summerville at Farm Pond provides a continuum of senior housing services for more than two-hundred-thirty (230) Framingham citizens located at 200 and 300 Farm Pond.

Collectively, we support STEPPS, Stop Tax Exempt Private Property Sprawl, in Framingham.

Our community embraces a safe and secure environment/neighborhood for all. A compromise of the health and safety of those trusted to our care, as well as those who work and visit Farm Pond, will never be acceptable.

To that end, please know that we stand with those who believe that our neighborhood should remain a neighborhood and we can not and will not tolerate anything that threatens the peace.

Sincerely,

Jim Triplett  
Interim Executive Director  
Summerville at Farm Pond

5/28/2005



DATE: May 27, 2005  
TO: The Framingham Board of Selectmen  
FROM: STEPPS (Stop Tax Exempt Private Property Sprawl)  
RE: 517 Winter St. Property Sale to SMOC  
(South Middlesex Opportunity Council)

As residents of Framingham, and neighbors of the Framingham Nursing Home on 517 Winter St., we collectively object to the purchase of this property by SMOC. Considering that SMOC is a private agency which likely intends to make this into a facility for drug addiction rehabilitation and a homeless shelter, and their focus also encompasses alcohol rehabilitation, shelters for battered women, centers for prisoners re-entering society and several other types of social rehabilitation centers, we have the following objections to the purchase of this property by SMOC:

1. Framingham currently has more SMOC facilities than any of the other towns in the Metrowest area combined. Framingham has over 80 facilities and all of the Metrowest area towns combined do not exceed the number of our SMOC properties.
2. SMOC is a non-profit organization, and therefore does not pay taxes to the town of Framingham. We, the Framingham taxpayers are paying to support the clients of SMOC. We already have to pay separate charges for our children to ride school buses and participate in school sports and activities. We should not be responsible for paying for the clients of SMOC, who may come from other towns, to attend our schools and participate in school activities.
3. Our town police, fire, ambulatory and hospital services are frequently responding to calls at current SMOC facilities. The property at 517 Winter St. currently houses up to 42 residents. Depending on the nature of SMOC's plans for this property, the number of residents could increase. This will only put a higher demand on our police and fire departments, with no increase in funds to support that demand or hire additional forces.
4. Within 1/10<sup>th</sup> of a mile from 517 Winter St., is an elderly assisted living facility, (please see attached letter from the Executive Director of that facility which houses 230 Framingham residents). Several of these units are separate from the main building, and have no security. We feel that a residence housing drug addicts, former prisoners, or the homeless could pose a serious safety risk to the elderly residents of this assisted living facility.
5. The only entrance to 517 Winter St. is in the rear of the building which is actually on Ardmore Rd. There are currently elementary and middle school bus stops on either end of Ardmore Rd. We do not want our children exposed to or put at a safety risk by the residents of this facility.
6. There are generations of families in this neighborhood who have worked hard to preserve this area as a safe place to raise future generations. We will not tolerate anything that may increase crime in our neighborhood and jeopardize our families' safety, or our efforts to preserve this part of Framingham.

Purchase of Framingham Nursing Home by SMOC

Page 2

The residents and taxpayers of Framingham have a right to determine how our taxes are spent, and how many non-profit facilities can be supported by our town resources.

We have several questions:

1. Is the sale of 517 Winter St. pending, or has this sale closed?
2. What type of facility is SMOC proposing for this property?
3. What percentage of Framingham residents occupies the existing SMOC facilities?
4. If the occupants of the SMOC facilities in Framingham are from other towns, should we be collecting money from those other towns to support their residents while they are residing in Framingham?
5. What are the criminal histories of the residents we will have living in our town?
6. How many Level 1, 2 or 3 sex offenders are now living in Framingham, and how many will be transferred here as a result of SMOC's accommodations for them in the future?
7. What type of security can we expect at SMOC's facility in our neighborhood?
8. Will the residents be allowed to come and go at will?
9. Will there be any protection for the residents of our neighborhood?
10. What kind of protection will be provided to our children at the bus stops on either end of Ardmore Rd.?
11. What type of protection will the residents of the elderly assisted living facility at Summerville at Farm Pond on Dr. Harvey Cushing Way have? Will they be easy victims for those residents with bad intentions?
12. How many children who reside in SMOC facilities are we supporting in the Framingham community? The average amount to support a child through school system (without special needs) in Framingham is \$8,237.00. How many have special needs, and what is the cost to support them?
13. The property at 517 Winter St. currently only has access from Ardmore Rd. Is there a plan to provide access from Winter St.?
14. Does SMOC and the Town of Framingham do background checks on the employees of such a facility that might exist in our neighborhood?
15. What is the cost of the increase in our taxes to support the demand of fire and police departments, ambulance and medical services, along with school resources required to take care of all of the out-of-town residents that have come to Framingham to take advantage of SMOC services?
16. SMOC has apparently increased their purchase of properties in Framingham from 63 to 81 in the last 2 to 3 years. That is more than a 25% increase. Are we becoming SMOCINGHAM? Where is their contribution to the community? Are they paying for another 25 policemen, firemen and teachers to support the influx of residents?
17. We would like to know how many people have died by unnatural causes in SMOC residences in Framingham in the last 10 years.

Purchase of Framingham Nursing Home by SMOC  
Page 3

18. What is the cap on how much of taxpayers' money can be used to support people from other communities?

We would like to know when the influx of SMOC facilities stops. ENOUGH IS ENOUGH. We would like our taxes to be applied to pay for things like our children's bus rides to school, or the sports and activities they'd like to participate in, or toward the betterment of Framingham for the taxpaying residents who live here.

We would like to request a meeting with the Board of Selectmen and the Town Meeting Members of Precinct 11, along with the executive directors of SMOC to discuss all of these issues and questions.

Please respond to our requests either by email to [STEPPSORG@comcast.net](mailto:STEPPSORG@comcast.net), or by contacting David and Mary Westwater at 508-872-5827.

STEPPS (Stop Tax Exempt Private Properties Sprawl)

5/31/05

To the attention of the Framingham Board of Selectman,

We citizens of Framingham are submitting our concerns as to the property at 517 Winter Street. We ask that BoS answer our concerns about the impact of the sale of that property on our neighborhood at the June 2<sup>nd</sup> board meeting. We are shocked that the town is unaware of how many shelters currently exist in Framingham and has no means of regulating this type of property.

Respectfully,  
Concerned Residents of Framingham

## Exhibit 16



**TOWN OF FRAMINGHAM**  
**Inspectional Services Division**  
**Department of Building Inspection**  
Memorial Building, Room E-10  
150 Concord Street  
Framingham, Massachusetts 01702-8368

Joseph R. Mikielian, C.B.O.  
Director of Inspectional Services/Building Commissioner

Telephone: 508-620-4838  
Fax: 508-628-1362  
Email: [Building.Dept@FraminghamMa.gov](mailto:Building.Dept@FraminghamMa.gov)

To: George P. King Jr., Town Manager

From: Joseph R. Mikielian, Director of Inspectional Services

Date: June 21, 2005

**Re: 517 Winter Street- proposed SMOC residence**

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At the Board of Selectmen's request I have reviewed the 18 questions submitted by the neighbors of the proposed South Middlesex Opportunity Council (SMOC) group residence at 517 Winter Street.

Question #1 can be answered since SMOC has applied and received a permit for window replacement and de-leading as the owner of record.

Most of the questions (#2 thru #18) cannot be answered until a permit application with plans and construction documents is filed with the Department of Building Inspection. Many other questions are a Police related such as the type of residents especially "sex offenders" or non-profit tax related matters and would not be part of any permit application.

After their application is accepted we will require complete documentation that this activity is operated by a "Non-Profit" as defined by the State and is exempt under MGL 40A, Sec. 3 of The Zoning Act. We will then submit their documentation to Town Counsel for his review and advisory opinion regarding the proposed activity and right of the Town to impose any reasonable regulations on this facility. The applicant must also comply with all sections of the State Building Code before a permit will be issued.

At a minimum they will need permits to "change the use" of the existing nursing home and any related electrical, plumbing, and or building permits for other further renovations. Finally a Certificate of Occupancy is required after all the allowed and permitted work is completed before anyone legally occupies the building.

Through your office I will also let the Board of Selectmen know when SMOC applies for a Dover Amendment exempted building permit.

## Exhibit 17

*Bowditch  
& Dewey*  
ATTORNEYS

Direct telephone: (508) 416-2404  
Direct facsimile: (508) 929-3016  
Email: jhanrahan@bowditch.com

July 12, 2005

VIA HAND DELIVERY

Joseph R. Mikielian, Building Commissioner  
Town of Framingham Building Department  
150 Concord Street  
Framingham, MA 01702

Re: 517 Winter Street, Framingham ("Property")

Dear Mr. Mikielian:

As you know, this office represents South Middlesex Non-Profit Housing Corporation ("SMNPHC"). On June 15, 2005, SMNPHC acquired title to property known as 517 Winter Street, Framingham, Massachusetts. Prior to their acquisition, the Property had been operated as the Framingham Nursing Home, a fifty-five (55) room long-term care facility. According to the records of the Town of Framingham, it had been considered an I-2 use pursuant to 780 CMR 308.3. The Property most recently received a Certificate of Inspection dated August 10, 2004 from the Town of Framingham, a copy of which is attached hereto as Exhibit A, and a Fire Certificate of Inspection dated February 17, 2005, a copy of which is attached hereto as Exhibit B.

This letter is to provide information relative to a Change of Use Application submitted with this letter. SMNPHC intends to use the Property as a family shelter, providing temporary housing for families, supported by a program designed to assist formerly homeless families in finding and maintaining permanent housing. While residents of the Property, families will receive services designed to promote self-sufficiency, including nutritional counseling, housing search assistance, parent education, counseling and child therapy. The facility will be staffed twenty-four (24) hours a day, three hundred sixty-five (365) days per year. This residential program will have a capacity to house up to fifteen (15) families, or thirty-five (35) to forty (40) individuals, at any one time. The staff will be comprised of, at minimum, one (1) program director, one (1) clinical director, one (1) family therapist, one (1) child services coordinator, one (1) child case worker, and eight (8) to nine (9) recovery specialists. There will be a maximum of six (6) staff members and a minimum of two (2) staff members at the Property at any one time. Each parent participant in this program will have an individualized plan that details expectations for living in recovery, adult educational goals, steps towards obtaining and maintaining employment and a program involving the care and well-being of children. Each child resident of

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the program also has an individualized plan, overseen by child health and educational specialists, which outlines childhood education and development goals and details specific school and daily supervision requirements. Parents are required to participate in daily recovery supportive activities, including Alcoholics Anonymous, as well as individual and group counseling. In addition, to ensure recovery compliance, all parents are subject to randomized urine screenings. All children's activities, including playtime, are supervised.

Operation of a supported shelter program is not a separate use category under the Zoning By-law. The use, as outlined above, is an educational use within the meaning of M.G.L. c. 40A, § 3, which provides in pertinent part; "no zoning ... By-law shall regulate or restrict the use of land or structures ... for educational purposes on land owned ... by a non-profit educational corporation". The proposed residential program will provide educational services to its residents to facilitate independent living, which services have been recognized as "a significant education goal" Fitchburg Housing Authority v. Board of Zoning Board of Appeals of Fitchburg, 380 Mass. 869, 875 (1980). In addition, since SMNPHC Articles of Organization authorize it to engage in educational activities, SMNPHC qualifies as a "non-profit educational corporation" for purposes of M.G.L. c. 40A, § 3. Accordingly, it is our opinion that, SMNPHC's use is a permitted use in accordance with the provisions of M.G.L. c. 40A § 3.

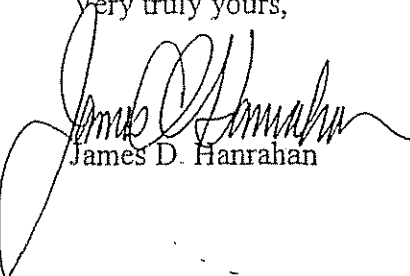
SMNPHC does not propose to make any physical changes to the Property at this time. In anticipation of the new residents moving into the facility, SMNPHC has conducted a lead screening and deleaded the Property. Additionally, SMNPHC has replaced some windows and performed minor electrical work. All such work has been done in accordance with Building Permits.

The prior use of the building, as a nursing home, was considered use group I-2 under 780 CMR 308.3. This use group is not appropriate for SMNPHC's intended use of the Property. First, the residents do not require custodial care on a twenty-four (24) hour basis because they are capable of self-preservation. Further, the proposed use is not a hospital, nursing home, mental hospital or detoxification facility. The proposed residential use constitutes a non-profit educational use pursuant to M.G.L. c. 40A § 3. It is my opinion that such use should be governed by 780 CMR 310.0 ("Residential Use Groups"). Within the Residential Use Group category, the most appropriate use group appears to be use group R-2, as described in 780 CMR 310.4, which use group includes "... all *multiple dwellings* having more than two *dwelling units*, except as provided for in 780 CMR 310.5 for multiple *single dwelling* units, and shall also include all *boarding houses* and similar buildings arranged for shelter and sleeping accommodations in which the occupants are primarily not transient in nature."

Based upon the foregoing, I do not believe, subject to your approval of the Change of Use Application, that SMNPHC needs any further permits or approvals to occupy the property for the use described in this letter.

Should you require any further information or have any questions with respect to this Application, please contact the undersigned.

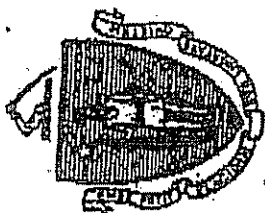
Very truly yours,



James D. Hanrahan

JDH/awm  
Enclosures

cc: James T. Cuddy w/ encl.  
René Kahlau w/ encl.  
Charles Gagnon w/ encl.  
Jerry Desilets w/ encl.



# The Commonwealth of Massachusetts

## Framingham

In accordance with the Massachusetts State Building Code, Section 106.5 this

### Certificate of Inspection



is issued to

FRAMINGHAM NURSING HOME

I Certify that I have inspected the

NURSING HOME known as FRAMINGHAM NURSING HOME

located at: 517 WINTER STREET in the

TOWN

of Framingham County of Middlesex Commonwealth of

Map Block Lot

The means of egress are sufficient for the following number of persons:

#### BY STORY

Story	Capacity
FIRST	29 ROOMS
SECOND	26 ROOMS

#### BY PLACE OF ASSEMBLY OR STRUCTURE

Place of Assembly or Structure	Capacity	Location

3105

AUGUST 10, 2004

Certification Number Date Certificate Issued

AUGUST 10, 2005

Date Certificate Expires

*Mark Budner*  
Building Official

The building official shall be notified within (10) days of any changes in the above information.

Town of Framingham, Massachusetts 01702Fire Department Headquarters

Michael L. Smith  
Chief

10 Loring Drive  
TEL: (508) 620-4942  
FAX: (508) 620-4946

FIRE CERTIFICATE OF INSPECTION

In accordance with the requirements of General Laws, Chapter 111, Section 51, this Fire Certificate Inspection issued by the head of the local Fire Department certifying compliance with local ordinances is a prerequisite for an original or renewal license.

Framingham Nursing Home  
NAME OF NURSING HOME

517 Winter Street  
ADDRESS OF NURSING HOME

Was inspected on February 17, 2005

DATE

By: Joseph Mastrofillippo

NAME OF INSPECTOR

I HEREBY CERTIFY THAT THIS INSTITUTION COMPLIES WITH THE LOCAL ORDINANCES

YES ☒ NO ☐

If answer is "NO", indicate violations and recommendations.

VIOLATIONS:

RECOMMENDATIONS:

Issued by:

Michael L. Smith

Michael L. Smith, Chief

Framingham Fire Department

Instructions:

Fire Department to return two (2) completed copies to Hospital  
Hospital to return one (1) copy to:  
Division of Health Care Quality  
10 West Street 5<sup>th</sup> Floor  
Boston, Massachusetts 02111



Town of Framingham, Massachusetts 01702



Ollie D. Gadson  
Chief

Fire Department Headquarters  
**FIRE PREVENTION INSPECTION CHECK LIST**  
**527 CMR**

10 Loring Drive  
TEL: (508) 620-4942  
FAX: (508) 620-4946

Facility Address 517 WINTER ST. BOX 322

Facility Name FRAMINGHAM NURSING HOME Telephone 508-875-0607

Facility Representative During Inspection KELLY CASEY / MIKE LOWRY

Date of Inspection 5/18/05 Inspected By JOE MASTRELL  
AND W NURSING

INSPECTION ITEM		YES	NO
Certificate of Inspection properly posted (527 CMR 10.17(1)(b)(c))			
Capacity = <u>55 ROOMS</u> Expiration date <u>8-10-2005</u>		✓	
Most recent sprinkler system inspection/test documented date: <u>2-9-05</u>		✓	
Most recent fire alarm system inspection/test documented date:			
Documentation showing flame retardant compliance of decorations with 527 CMR 21		NA	
Certification of decorations renewed for non-permanent flame retardants after cleaning or laundering of material (527 CMR 21.02(3))		NA	
Documentation present for regulated seating (527 CMR 29)		NA	
Employees trained for emergency procedures (527 CMR 10.13(2)(a))		✓	
Egress plan submitted to the Fire Department (527 CMR 10.13(2)(b))		✓	
All means of egress unobstructed and suited for immediate use (527 CMR 10.03(1), 10.03(13)(a), 10.17(4)(a))		✓	
Admittance to facility denied pending corrective action for means of egress (527 CMR 10.17(4)(a))			✓
All exit doors operable (527 CMR 10.17(4)(b))		✓	
In rooms with chairs and tables aisles to egress door minimum 44" clear width (527 CMR 10.17(4)(c))		✓	
All interior and exterior stairways unobstructed (527 CMR 10.17(4)(d))		✓	
All exit sign lighting operable (527 CMR 10.17(4)(e))		✓	
Emergency lighting of means of egress operable (527 CMR 10.17(4)(e))		✓	
Fire extinguishers properly maintained; Inspection Date <u>9-2004</u> (527 CMR 10.02(1))		✓	
Exterior stairways and fire escapes free of snow and ice (527 CMR 10.03(13)(d))		✓	
Hood Systems: Inspection/test documented date: <u>11-04</u> (527 CMR 10.03 (8))		✓	
Hood Cleaning: Documented date: <u>2-21-05</u> (527 CMR 10.03 (8))		✓	
Combustibles: Accumulation / Excessive storage (527 CMR 106.1 (f))			✓

Please note that in accordance with 527 CMR 1.06 (5) and (6), the fire official shall immediately notify the appropriate code official of any violation of building, electrical, health, or other codes observed by the fire official.

Comments:



The Commonwealth of Massachusetts  
State Board of Building Regulations  
and Standards  
Massachusetts State Building Code  
780 CMR

TOWN OF FRAMINGHAM  
Department of Building Inspection

150 CONCORD STREET  
FRAMINGHAM, MASSACHUSETTS 01702-8368  
Tel: 508-620-4838 Fax: 508-628-1362

APPLICATION TO CONSTRUCT, REPAIR, RENOVATE, (CHANGE THE USE OR OCCUPANCY OF) OR DEMOLISH ANY  
BUILDING OTHER THAN A ONE OR TWO FAMILY DWELLING

This Section For Official Use Only

Building Permit Number:

Date Issued:

Signature:

Building Commissioner/Inspector of Buildings

Date:

SECTION 1 - SITE INFORMATION

1.1 Property Address:

517 WINTER STREET

1.2 Assessors Map & Parcel Number:

381 BLOCK 147 31

1003810000100310

Map Number

Parcel Number

1.3 Zoning Information:

R1

non-profit educational Use

Zoning District

Proposed Use

1.4 Property Dimensions:

90,866

871.26

Lot Area (sq)

Frontage (ft)

1.6 Building Setbacks (ft)

Front Yard

Side Yards

Rear Yard

Required

Provided

Required

Provided

Required

Provided

1.7 Water Supply (MGL c 40 § 54)

Municipal

Private Well

1.5 Flood Zone Information:

Zone:

Outside Flood Zone

1.8 Sewage Disposal System:

Municipal

On site disposal system

SECTION 2 - PROPERTY OWNERSHIP/AUTHORIZED AGENT

2.1 Owner of Record:

SOUTH MIDDLESEX NON-PROFIT HOUSING CORP.

300 HOWARD STREET

Name (Print)

Address:

JAMES T. CADDY

(508) 620-2300

FRAMINGHAM MA 01702

Signature

Telephone

2.2 Authorized Agent:

BOWDITCH & DEWEY LLP

161 WORCESTER Rd. Framingham MA.

Name (Print)

Address:

Signature

Telephone

SECTION 3 - CONSTRUCTION SERVICES FOR PROJECTS LESS THAN 35,000 CUBIC FEET OF ENCLOSED SPACE

3.1 Licensed Construction Supervisor:

Licensed Construction Supervisor:

Address

Signature

Telephone

Not Applicable

License Number

Expiration Date

3.2 Registered Home Improvement Contractor:

Company Name

Address

Signature

Telephone

Not Applicable

Registration Number

Expiration Date

(OVER)

**SECTION 4 - WORKERS' COMPENSATION INSURANCE  
AFFIDAVIT (MGL c 152 s 32)**

Workers Compensation Insurance affidavit must be completed and submitted with this application. Failure to provide this affidavit will result in the denial of the issuance of the building permit.

Signed Affidavit Attached Yes..... No.....

**SECTION 5 - PROFESSIONAL DESIGN AND CONSTRUCTION SERVICES FOR BUILDINGS AND STRUCTURES  
SUBJECT TO CONSTRUCTION CONTROL PURSUANT TO 780 CMR 116 (CONTAINING MORE THAN 35,000 C.F. OF  
ENCLOSED SPACE)****5.1 Registered Architect:**

Name (Registrant):	Not Applicable
Address	Registration Number
Signature	Expiration Date
Telephone	

**5.2 Registered Professional Engineer(s):**

Name	Area of Responsibility
Address	Registration Number
Signature	Expiration Date
Telephone	
Name	Area of Responsibility
Address	Registration Number
Signature	Expiration Date
Telephone	
Name	Area of Responsibility
Address	Registration Number
Signature	Expiration Date
Telephone	
Name	Area of Responsibility
Address	Registration Number
Signature	Expiration Date
Telephone	

**5.3 General Contractor**

Company Name:	Not Applicable
Responsible In Charge of Construction	Registration Number
Address	Expiration Date
Signature	
Telephone	

**SECTION 6 - DESCRIPTION OF PROPOSED WORK (check all applicable)**

New Construction	Existing Building	Repair(s)	Alteration(s)	Addition
------------------	-------------------	-----------	---------------	----------

Accessory Bldg.	Den. ....ion	Other Specify: .....
Brief Description of Proposed Work: <div style="text-align: center;">CHANGE OF USE</div>		

**SECTION 7 - USE GROUP AND CONSTRUCTION TYPE**

USE GROUP (Check as applicable)				CONSTRUCTION TYPE	
<b>A</b> Assembly	A-1	A-2	A-3	1A	
	A-4	A-5		1B	
<b>B</b> Business				2A	
<b>E</b> Educational				2B	
<b>F</b> Factory	F-1	F-2		2C	
<b>H</b> High Hazard				3A	
<b>I</b> Institutional	I-1	I-2	I-3	3B	
<b>M</b> Mercantile				4	
<b>R</b> Residential	R-1	R-2	R-3	5A	
<b>S</b> Storage	S-1	S-2		5B	
<b>U</b> Utility	Specify: .....				
<b>M</b> Mixed Use	Specify: .....				
<b>S</b> Special Use	Specify: .....				

**COMPLETE THIS SECTION IF EXISTING BUILDING UNDERGOING RENOVATIONS, ADDITIONS AND/OR CHANGE IN USE**

Existing Use Group: <u>I-2</u>	Proposed Use Group: <u>R-2</u>
Existing Hazard Index (Chapter 34): .....	Proposed Hazard Index (Chapter 34): .....

**SECTION 8 - BUILDING HEIGHT AND AREA**

BUILDING AREA	Existing (if applicable)	Proposed
Number of Floors or stories include basement levels		
Floor Area per Floor (sf)		
Total Area (sf)		
Total Height (ft)		

**SECTION 9 - STRUCTURAL PEER REVIEW (780 CMR SECTION 110.11)**

Independent Structural Engineering Structural Peer Review Required	Yes	No
--	-----	----



**SECTION I - OWNER AUTHORIZATION TO BE COMPLETED  
WHEN OWNERS AGENT OR CONTRACTOR APPLIES FOR BUILDING  
PERMIT**

I, \_\_\_\_\_, as Owner of the subject  
property hereby authorize

to act on my behalf, in all matters relative to work authorized by this building permit application.

Signature of Owner

Date

**SECTION IOL - OWNER/AUTHORIZED AGENT DECLARATION**

I, SOUTH Middlesex Non Profit Housing Corp., as Owner/Authorized Agent  
hereby declare that the statements and information on the foregoing application are true and accurate, to the best of my  
knowledge and belief.

Signed under the pains and penalties of perjury.

Print Name JAMES T. Cuddy Executive Director

Signature of Owner/Agent

Date

7/8/05

**SECTION II - ESTIMATED CONSTRUCTION  
COSTS**

Item	Estimated Cost (Dollars) to be completed by permit applicant	Official use Only	
		(a) Building Permit Fee Multipliers \$13.75/\$1,000.	
1. Building		(b) Estimated Total Cost of Construction from (6)	
2. Electrical		Building Permit Fee* (a) x (b)	
3. Plumbing			
4. Mechanical (HVAC)			
5. Fire Protection		Check Number	
6. Total = (1+2+3+4+5)			

\* BUILDING PERMIT FEE WILL BE AMENDED (IF NECESSARY) TO INCLUDE ACTUAL  
CONSTRUCTION COSTS BEFORE A PERMANENT OCCUPANCY WILL BE ISSUED.

DATE:

DENIAL FOR ZONING BOARD OF APPEALS:

PER SECTION:

BUILDING COMMISSIONER  
JOSEPH MIKIELAN C.B.O.

## Exhibit 18

*Bowditch  
& Dewey*  
ATTORNEYS

Direct telephone: (508) 416-2404  
Direct facsimile: (508) 929-3016  
Email: jhanrahan@bowditch.com

July 13, 2005

VIA HAND DELIVERY

Joseph R. Mikielian, Building Commissioner  
Town of Framingham Building Department  
150 Concord Street  
Framingham, MA 01702

Re: 517 Winter Street, Framingham ("Property")

Dear Joe:

Enclosed per your request are the Articles of Organization and By-Laws for South Middlesex Non-Profit Housing Corporation. Please note that the Corporation is a not-for-profit corporation pursuant to M.G.L. c. 180. Further, the Corporation has been given tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code. Attached is a copy of the letter certifying such designation.

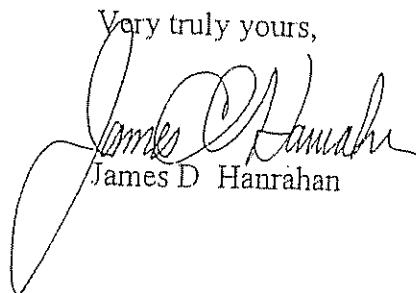
With respect to the Corporation's educational purpose, please note that Paragraph 2 of the Articles specifically provide as the purpose of the corporation:

"To mobilize and utilize resources, both public and private, in order to provide opportunities for education, training, vocational rehabilitation, care and treatment, and a shelter for individuals and families, regardless of race, creed, color and age; ..."

Also enclosed, is our check in the amount of \$27.50, the application fee for the application for Change of Use which was inadvertently omitted from the package delivered to you yesterday.

Should you have any further questions please contact me

Very truly yours,

  
James D. Hanrahan

JDH/amw  
Enclosure

(J:\CT\IFN\Shca\192752\0356\cor\0312812 Doc.1)



## Exhibit 19

**SMOC** SOUTH MIDDLESEX OPPORTUNITY COUNCIL  
*Organizing Resources for Social Change and Economic Independence*

Main Office · 300 Howard Street · Framingham, MA · 01702 · 508-620-2300 · FAX 508-620-2310

July 12, 2005

George P. King, Jr.  
Town Manager  
Town of Framingham  
Memorial Building  
150 Concord Street, Room 121  
Framingham, MA 01702

Re: 517 Winter Street Framingham, MA

Dear Mr. King:

I write to respond to your letter of June 20, 2005 inviting SMOC to participate in a conference, sponsored by the Board of Selectmen, with a citizens' group calling itself "STEPPS" to discuss concerns regarding our acquisition of property located at 517 Winter Street.

Please be advised that SMOC is not willing to meet with this group during a Selectmen's meeting. It is apparent from the list of questions submitted by this group, which you forwarded to us, that a productive dialogue is not possible with this group. Based both on their submitted questions and information contained on their website, it is clear that STEPPS is determined to prevent siting by SMOC of any residential programs in the Town of Framingham.

Any sponsorship of such a forum by the Board of Selectmen would likely be a violation of both the Fair Housing Act and the Americans with Disability Act. The specific current focus of STEPPS is the 517 Winter Street property which SMOC intends to use to relocate the Sage House Family Program, a residential, educational and recovery oriented program for families that is funded by the Commonwealth of Massachusetts. The future residents of that facility are protected under the Fair Housing Act as well as the Americans with Disability Act. Additionally, as a non-profit educational use, the property is protected under the so called Dover Amendment M.G.L. c. 40A § 3. Efforts by the Planning Board to conduct a public hearing on the appropriateness of that location for such a program will likely violate the Fair Housing Act and the Americans with Disability Act.

SMOC is willing to communicate with interested parties regarding 517 Winter Street. To that end, we have sent a letter to abutters outlining the program and welcoming their questions

and concerns. It is our intention, following opening of the program, to have an open house as we have done with other facilities in the Town of Framingham. The most recent example of this was the process used in opening our supportive, residential facility located at 360 Union Avenue. It has been our intent all along to meet with our new neighbors. In fact, Jerry Desilets, SMOC's Director of Planning and Community Relations, has made that offer to several neighbors who have contacted him via phone.

Our organization is confident that we will continue to be good and responsible neighbors. We ask that the Board of Selectmen support us in our efforts.

Very truly yours,

James T. Cuddy  
Executive Director

Encl. Abutters' Letter

## Exhibit 20



TOWN OF FRAMINGHAM  
Massachusetts  
Office of the  
TOWN COUNSEL  
Christopher J. Petrini

Town Office:  
Office of the Town Counsel  
Memorial Building  
150 Concord Street; Room 127  
Framingham, MA 01702  
(508) 620-4802  
Facsimile (508) 620-5910  
E-mail: [cpetrini@framinghamma.org](mailto:cpetrini@framinghamma.org)

Framingham Office:  
Petrini & Associates, P.C.  
The Meadows  
161 Worcester Road, Suite 304  
Framingham, MA 01701  
(508) 665-4310  
Facsimile (508) 665-4313  
E-mail: [cpetrini@petrinilaw.com](mailto:cpetrini@petrinilaw.com)

MEMORANDUM

To: Board of Selectmen

From: Christopher J. Petrini  
Town Counsel

cc: Zoning Board of Appeals  
Planning Board  
Standing Committee on Planning and Zoning  
Government Study Committee  
Edward Noonan, Town Moderator  
George P. King, Jr., Town Manager  
Mark J. Purple, Assistant Town Manager  
Joe Mikielian, Building Commissioner  
Eugene Kennedy, Senior Planner

Date: July 22, 2005

Re: SMOC's Proposed Use for 517 Winter Street; Possible Changes or Modifications to Framingham Zoning By-Law and Possible PILOT Program for Framingham

---

INTRODUCTION

This memorandum will address several questions that have arisen due to the recent purchase of 517 Winter Street by South Middlesex Opportunity Council, Inc. ("SMOC"). Local residents have expressed concerns that SMOC may decide to use the existing building at this site for some type of use that is incompatible with the residential zoning of this area. Members of the Board of Selectmen have expressed similar concerns. In view of these concerns, I have undertaken an analysis to determine what form of reasonable compliance with local zoning may be imposed on the use of this property, while being mindful of the protections that likely will be afforded it pursuant to G.L. c. 40A, § 3 (hereinafter referred to as "Section 3" or "Dover



Amendment"). I also have addressed whether some form of payment in lieu of taxes program ("PILOT Program") may be applied to SMOC to recoup some of the costs incurred in providing SMOC or its service clients with municipal services. If the Board wishes to meet with me at an upcoming meeting to discuss this memorandum, I would be pleased to do so.

### FACTS

SMOC is a Massachusetts nonprofit corporation and also is qualified as a charitable organization pursuant to G.L. c. 59, § 5, as exempt from taxation. SMOC provides service to low-income, homeless and special need populations in the greater Metrowest area. SMOC's stated goal is to improve the quality of life for low income people by offering programs that include day care and preschool education, employment training and placement, housing, addiction, mental health, women's protective services, nutrition, energy and weatherization, legal services, services for the elderly, emergency shelter, as well as community organizing around health care, housing, rising energy cost and banking services.

A review of the Town's property listing for 517 Winter Street, indicates that the land and existing structure have been held in continuous ownership since January 1, 1900, by the Nicholas Thisse Trust. Because the two-story building on this property has been used as a nursing home since it was built in 1900, it has continued as a preexisting nonconforming use pursuant to G.L. c. 40A, §6, due to the fact that the use predates the change to an R-1 zoning district.

On July 13, 2005, the Department of Building Inspection ("Department") received a building permit application from SMOC for a change of use, with no additional construction, for a "family shelter, providing temporary housing for families, supported by a program designed to assist formerly homeless families in finding and maintaining permanent housing" for the former nursing home at 517 Winter Street. Along with their application, SMOC provided details of the proposed educational use and its non-profit status. Under G.L. c. 40A, the Building Commissioner has 30 days from receipt to either approve the building permit application or deny the application in writing for cause.

### ISSUES PRESENTED

I have addressed several questions concerning the acquisition of this property by SMOC. These questions include: (1) what zoning requirements would SMOC be required to comply with if the proposed use is not a Dover Amendment use; (2) if the Town is to adopt a change to the Zoning By-Law that could require Dover Amendment uses to be subject to site plan review, what kinds of review and regulation can the Town impose on these uses; (3) could those changes to the By-Law be applied to SMOC; and (4) even though SMOC is a charitable, non-profit organization, can the Town require that it make payments-in-lieu-of-taxes for the cost incurred by the Town in providing municipal services?

### ANALYSIS

**1. What would be required if the use proposed by SMOC is not a Dover Amendment protected use?**

The prior use of the property for a nursing facility was a pre-existing, non-conforming use that was in existence prior to the zoning of this area for R-1 residential use. The new use is as a family shelter. Therefore, if the proposed use was found to not be a use protected by Section 3, SMOC would need to obtain a variance by the Zoning Board of Appeals that the change in use will not be substantially more detrimental than the existing nonconforming use to the neighborhood pursuant to G.L. c. 40A, § 6. However, even if SMOC could meet the requirements for a use variance, it would not be available in this instance as Section V.F.1. of the By-Law states "[a] variance authorizing a use or activity not otherwise permitted in the district in which the land is located shall be prohibited in . . . single residence and general residence districts." SMOC would also be subject to any other relevant regulations required by the By-Law for the type of use being proposed, including parking requirements and site plan review if those provisions were triggered by the proposed use.

It is possible, however, that SMOC will be able to support its claim that this is a legally supportable Dover Amendment use. "The Dover Amendment bars the adoption of a zoning ordinance or bylaw that seeks to prohibit or restrict the use of land for educational [or religious] purposes." Trustees of Tufts College, 415 Mass. 753, 757 (1993). However, the statute authorizes municipalities to adopt and apply reasonable regulations regarding bulk, dimensions, open space and parking, to land and structures for which such uses are proposed. See id. According to the Supreme Judicial Court, the Dover Amendment seeks to strike a balance between preventing local discrimination while "honoring legitimate municipal concerns" that are expressed in local zoning laws. See id.

The Superior Court recently decided a Dover Amendment case with facts similar to SMOC's present application for a change of use. In Brockton Coalition for Homeless v. Tonis, 2004 WL 810296 (Mass. Super. Ct. March 5, 2004) (Hely, J.). In that case, the Brockton Coalition for the Homeless ("Coalition") purchased the land and building of a nursing home in Stoughton. See id. at 1. The Coalition then obtained a building permit to renovate the nursing home in order to operate the facility as a temporary shelter for seventeen homeless families. See id. An abutter to the property appealed the issuance of the building permit to the Stoughton Zoning Board of Appeals and the zoning board overturned the issuance of the building permit, which in turn precluded the building commissioner from issuing a certificate of occupancy. See id. at 2.

The Coalition appealed the decision to the Superior Court pursuant to G.L. c. 40A, § 17. See id. The Superior Court found that "the term shelter is somewhat misleading. Temporary housing is only one part of the assistance that the Coalition will be providing to homeless families at the Stoughton facility. . . . [the purpose of the] shelter is to assist homeless families in obtaining permanent housing and in becoming economically and socially independent. The Coalition seeks to achieve this by providing temporary shelter with education." Id. at 3. The

court then went on, at length, to address all of the programs offered by the Coalition which supported its conclusion that the dominant purpose of the proposed facility was educational. See generally id. This in turn required the court to apply the limitations on the board's authority as contained in § 3 for a Dover Amendment use and resulted in the court looking closely at the zoning board's basis for denying the permit, which was predominately based on inadequate parking and access for fire and emergency vehicles. See id. at 5-6. According to the Court, all of the issues could be adequately addressed through reasonable accommodations and therefore strict compliance with zoning was not required. The Court therefore overturned the decision of the zoning board and ordered issuance of the certificate of occupancy while permitting the zoning board to regulate the location and marking of parking spaces to ensure adequate and appropriate emergency vehicle access.

**2. What changes to the Zoning By-Law would allow Review and Regulation of Dover Amendment Uses and what would be the Limits to Regulation under State Law?**

There is currently a great deal of interest in Town in changing the Zoning By-law to expressly permit reasonable regulation, and in some cases, site plan review of Dover Amendment uses. A Zoning By-Law change has been proposed for consideration by a Special Town Meeting on August 3, 2005. The Zoning By-Law changes as currently drafted propose to treat Dover Amendment uses the same as other projects, subject to whatever Dover protections such projects are entitled to receive. These changes are likely to be found permissible by the Attorney General and the courts, so long as they are applied in a neutral, non-discriminatory fashion to Dover uses.

Some communities have implemented site plan review provisions solely tailored for regulation and review of Dover Amendment uses. These bylaws generally have been approved by the Attorney General. The possible risk of such by-laws in their application is that the Appeals Court has determined "there is nothing in the language of G.L. c. 40A, § 3, which contemplates the requirement of site plans and informational statements as monitoring devices for educational [and religious] uses . . ." The Bible Speaks v. Board of Appeals of Lenox, 8 Mass. App. Ct. 19, 32 (1979). According to the Appeals Court, allowing site plan review for these uses might enable planning boards to:

fashion restrictions that subordinate the [ ] use to the board's planning goals. Any such restriction imposed under the authority of the by-law may well have the effect of nullifying, or seriously diminishing, the educational institution's entitlement to reasonable growth. It also, as a practical matter, enables the town to exercise its preferences as to what kind of educational or religious denominations it will welcome, the very kind of restrictive attitude which the Dover Amendment was intended to foreclose.

See id. at 32-33. A copy of the Bible Speaks decision is attached as Exhibit A.

Notwithstanding the broad prohibitory language in the Bible Speaks decision, recent case law at the trial court level indicates that site plan review may be applied to Dover-protected uses

if it is a neutral application of local zoning.<sup>1</sup> For example, in a recent decision issued by the Superior Court, the use of site plan review by the Town of Sturbridge was found to be reasonably applied to new construction involving an expansion project proposed by a non-profit organization which included an educational component. See Rehabilitative Resources, Inc. v. Peabody (Zoning Board of Sturbridge), 2004 WL 2341387 (Mass. Super. Ct. Oct. 7, 2004) (Billings, J.) (“Rehab III”). (A copy of Rehab III is attached as Exhibit B.) In this case, a planning board denied approval of the project’s site plan, “acknowledging that § 3 applied to [the project], but finding the project not in conformity with the bylaw’s requirements regarding a variety of (vehicular and pedestrian) traffic-related issues.” Rehabilitative Resources, Inc. v. Planning Board of Sturbridge, 61 Mass. App. Ct. 1122 (2004) (unpublished 1:28 decision which cannot be relied upon as precedent) (Rehab II). (A copy of Rehab II is attached as Exhibit C.) Specifically, the planning board found “that while the proposed project is an exempt educational use, it does not satisfy the safety requirements of the site plan review process. The application is silent on the surrounding safety concerns and offers no mitigation measures. The proposed use[s] . . . exceed the stated ‘office building’ parameters for the traffic study and site design.” See Rehab II at 1122.

In response to the planning board’s decision, Rehabilitative Resources, Inc. (“RRI”), appealed to the Superior Court and subsequently to the Appeals Court, asserting that as the project involved a nonprofit educational use, it was subject to protection of G.L. c. 40A, § 3 and therefore not required to comply with the town’s site plan review process. See Rehab II at 1122; Rehabilitative Resources, Inc. v. Gibson, 2002 WL 31973244 (Mass. Super. Ct. Dec. 13, 2002) (Donohue, J.) (Rehab I). (A copy of Rehab I is attached as Exhibit D.) The case went to the Appeals Court on a procedural issue to answer the question of whether a town’s by-law could allow an applicant the right of appeal directly to court for review of a denial of a site plan. The Appeals Court held that a town by-law could establish the right to immediate court review, but did not reach RRI’s claim that site plan review did not apply to the use based due to G.L. c. 40A, § 3. Instead the Appeals Court remanded it back to the Superior Court to be combined with that courts consideration of the denial of the building permit.

On remand from the Appeals Court, the Superior Court in Rehab III found in favor of the planning board and held that local zoning can be enforced “against an educational use . . . so long as the provision is shown to be related to a legitimate municipal concern, and its application bears a rational relationship to the perceived concern.” The Superior Court concluded that in relation to the site under consideration, which was already nonconforming as to setback and lot width, enforcement of the zoning requirements were reasonably related to addressing important issues of access, density, light and air. See Rehab III, Exh. B, at 5. The Superior Court found that RRI had failed to carry its burden in showing that it would be excessively burdened by substantial compliance with the zoning by-law. See Rehab III, Exh. B, at 6. What is most significant is that the court also took into consideration that the educational use was not the main

<sup>1</sup> As one example of an attempt to fashion an acceptable means by which to apply site plan review to Dover Amendment uses, the City of Newton requires a “non-binding” administrative site plan review for these types of uses. As compliance with the outcome of the review would be voluntary, it arguably does not violate the ruling of the Appeals Court in The Bible Speaks. However, it also does not contain a means by which to insure compliance with local concerns and recommendations.

purpose for the structure, stating that "[i]t is neither a campus, nor a single-purpose structure, nor the last developable site in town. That RRI may have outgrown it, and may wish to consolidate its operations . . . is not sufficient to carry its burden of showing that otherwise legitimate land use regulations would unreasonably interfere with its educational mission." Id.

It does not appear that RRI sought to appeal the decision of the Superior Court on the fundamental question of whether it is permissible to apply site plan review to Dover projects. Although this case does not set any form of precedent, it still provides guidance in defining what local regulations may be considered reasonable by the courts in their attempt to balance local concerns with the need to protect Dover Amendment uses. We may be able to use RRI III for persuasive value should the Building Commissioner determine that the use was not primarily educational in nature and thus does not a grant the permit allowing the change of use under the Dover Amendment.

The requirements for site plan review as defined in Framingham's By-Law (presuming the By-law is amended at the August 3<sup>rd</sup> Town Meeting to remove the current exception for Dover Amendment uses), are quite different from the requirements used by the Town of Sturbridge.<sup>2</sup> However, they are similar in that both are neutral as to their application in that they do not require that G.L. c. 40A, § 3 uses be subjected to any greater regulation than other uses. It is this neutral treatment that appears to be the key element to the successful application of site plan review to Dover Amendment uses.

The principle of treating Dover and non-Dover uses alike also is in keeping with an opinion of the Attorney General's Office ("AGO") issued to the Town of Danvers in 2003, which stated in pertinent part:

It is our view that the requirement for site plan review is not facially inconsistent with state law to ascertain whether a protected use complies with reasonable regulations concerning yard size, lot area, setbacks, open space, parking, and building coverage requirements. However, we caution the town not to implement site plan review in a manner that infringes on the rights given under G.L. c. 40A, Section 3.

See Danvers #2366 (Attorney General's Office, The Municipal Law Unit, March 19, 2003). Stated in another way, reasonable regulation and site plan review of Dover Amendment Projects likely will be deemed permissible by a court if it is applied to many uses and not just § 3 uses, and the analysis or review performed stays within the parameters of what can be regulated under the Dover Amendment.

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<sup>2</sup> The Town of Sturbridge required site plan review for most uses based on the language "No person shall undertake a use, construction, or alteration of any structure which is subject to the provisions of the Site Plan Review, unless . . . [a]pproved by the [planning board], [whereupon] the [planning board] shall issue a permit therefore . . . . No building or use permit shall be issued by the Director of Inspections . . . until a decision of the [planning board] providing the final site plan has been filed with the Town Clerk . . . ." See Rehab II, Exh. C., at 1122.

Therefore, it is advised that the Town not attempt to fashion any type of "use specific" site plan review for Dover Amendment uses. Instead, Section IV I.2 of the By-Law which currently states:

The Planning Board shall conduct site plan review and approval. Notwithstanding any provision of this By-Law to the contrary, any structure, use, alteration or improvement which meets any of the following criteria (excluding subdivisions for detached single-family dwellings, planned unit developments, and all uses exempt from such zoning regulation as set forth under MGL Chapter 40A, Section 3) shall require site plan review and approval as set forth in this section (emphasis added).

should be amended to remove the underscored "and all uses exempt from such zoning regulation as set forth under MGL Chapter 40A, Section 3." In addition, Section III.A.1.i. which states:

i. Facilities, including structures and site improvements, owned and operated by a non-profit organization recognized by the Commonwealth of Massachusetts as such, Chapter 180, as amended, Massachusetts General Laws, operated for religious, charitable, educational, scientific, or literary purposes, or to prevent cruelty to animals or children and not of a correctional nature, which are used for the non-profit work of the organization, including the administration of such organization's affairs, provided that: (1) The contiguous area of the site, including the area of any ponds or lakes located thereon, shall be not less than 40 acres, and . . . (14) Before the Planning Board makes its recommendations to the Building Commissioner a public hearing shall be held by the Planning Board.

should either be eliminated<sup>3</sup> or the reference to religious and educational uses in the first sentence of that subsection should be removed from the list of nonprofit uses. This should then allow for site plan review to be used in instances involving Dover Amendment uses that meet the already established requirements for review.

In addition to the areas of regulation specifically identified in § 3, courts have given deference to regulation based on traffic concerns and possibly environmental concerns. See Trustees of Tufts College, 415 Mass. at 755; Watros v. Greater Lynn Mental Health and Retardation Association, Inc., 37 Mass. App. Ct. 657, 665 (1994); The Southern New England Conference Association of Seventh-Day Adventists v. Town of Burlington, 21 Mass. App. Ct. 701 (1986) (§ 3 did not exempt religious use from provisions of a town's zoning by-law requiring a special permit for construction within a wetlands district). However, the Appeals Court did not find "land erosion or loss of tree cover" to be appropriate considerations under § 3. The Bible Speaks, 8 Mass. App. Ct. 31.

<sup>3</sup> If eliminated, then it would also be necessary to remove III.A.2.a. Further, it should be noted that III.A. does not have a provision allowing for "educational purposes on land owned by a nonprofit educational organization."

**3. Could Pending Proposed Changes to the Zoning By-Law Be Applied to 517 Winter Street Presuming Passage by Town Meeting on August 3rd?**

If the proposed use contains a demonstrable educational component offered by SMOC as a nonprofit educational corporation, then it would be a permissible "as of right" use for this area, despite the fact that the Section III.1. of the By-Law does not include clear language allowing for this use in an area zoned for single residence use. See Trustees of Tufts College v. City of Medford, 415 Mass. 753, 760 (1993). It is ultimately SMOC's responsibility to present the necessary evidence to the Town to support an assertion that it meets the requirements of G.L. c. 40A, § 3, for protection as an educational use.

Whether the proposed changes to the By-Law could be applied to SMOC is directly guided by G.L. c. 40A, § 6, ¶ 1, which provides that "a zoning ordinance or bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on such ordinance or by-law." In the present case, the Planning Board filed its Notice of Public Hearing with the Town Clerk on July 11<sup>th</sup>, SMOC filed its building permit for a change of use with the Building Commissioner on July 13<sup>th</sup>, and newspaper notice of the proposed by-law changes was published in the Metrowest Daily News on July 14 and 21, 2005. No building permit was issued prior to the first publication of notice of the proposed changes to the By-Law. Therefore, SMOC would be subject to and required to comply with changes in the Zoning By-Law made in accordance with this public notice, presuming such changes are adopted by Town Meeting on August 3, 2005.

However, according to G.L. c. 40A, § 5:

The effective date of the adoption or amendment of any zoning ordinance or by-law shall be the date on which such adoption or amendment was voted upon by a city council or town meeting; if in towns, publication in a town bulletin or pamphlet and posting is subsequently made or publication in a newspaper pursuant to section thirty-two of chapter forty. If, in a town, said by-law is subsequently disapproved, in whole or in part, by the attorney general, the previous zoning by-law, to the extent that such previous zoning by-law was changed by the disapproved by-law or portion thereof, shall be deemed to have been in effect from the date of such vote.

This language will control if the Attorney General's Office determines that the changes to By-Law could not be amended as proposed and specifically that Section IV.1.2. cannot be amended to allow site plan review of Section 3 uses. For the reasons described above, however, we believe that the Attorney General's Office likely will approve the changes to the Zoning By-Law to no longer exempt Dover Amendment uses from site plan review where applicable, at least to the extent consistent with the Public Hearing Notice published in the Metrowest Daily News published on July 14, 2005.

**4. Can the Town Require Tax-Exempt Uses to Repay the Town for Municipal Services through a PILOT Program?**

State law has established numerous exemptions that release certain tax-exempt property owners from the obligation to pay all or a portion of the taxes assessed on a parcel of property. Property owned by nonprofit charitable organizations are exempt pursuant to G.L. c. 59, § 5. An organization or institution is considered a charitable organization if the work they perform is for the public good and not for the benefit of its members or a limited class of persons. The burden is on the organization asserting tax-exempt status to establish it. For every parcel of property that is exempted from taxation an increase is required in the amount of taxes that must be collected from other properties that are taxable to cover the cost of necessary funding for municipal services to all properties.

Despite the fact that properties owned by charitable organizations are exempt from taxation, such organizations still utilize municipal services including police, fire, public health, and other resources. Cities such as Boston have made a concerted effort to address this problem through the initiation of Payment in Lieu of Tax Programs ("PILOT"). Through its PILOT Program, the City of Boston receives contributions from educational, medical and cultural institutions which have entered into agreements to help cover the costs of municipal services. Currently 52% of all Boston real estate is owned by tax-exempt organizations. Without the PILOT Program the cost of municipal services would be borne exclusively by residential and commercial taxpayers in the city. Boston's PILOT program has received favorable recognition as a model program. The City's tax policy unit has provided us with a copy of their Guidelines for establishing a PILOT Program, a copy of which are attached hereto as Exhibit E. Given the success of the Boston PILOT Program and the high level of participation that Boston has been able to achieve, it is worthwhile to spend a few moments analyzing Boston's program here.

PILOT Programs are voluntary; the local municipality has no authority by which it can require a tax exempt organization to participate. Yet, there are many organizations that realize that they are receiving valuable services without paying their share of the costs and have voluntarily agreed to pay for those services. Every year the City of Boston publishes a list of contributing non-profit organizations that have made contributions through the PILOT Program, which affords them with recognition by the local community for their support. If Framingham ultimately adopts a PILOT program, I see no reason why all currently existing non-profit organizations in Framingham should not be asked to participate, insofar as participation is voluntary.

Boston's PILOT process begins at the time a tax-exempt organization acquires new property or begins new construction. Notifications of those actions are provided to the Assessing Department by the Boston Redevelopment Authority. The Assessing Department then contacts the organization and request a PILOT. This includes a New Project Profile Form to be completed by the organization regarding its property, revenue raising capability, intended use of the property, and other related information. Once the Assessing Department reviews the New Project Profile, representatives of both the tax-exempt institution and the Assessing Department begin discussions about the proposed acquisition or development, determine the appropriate



contribution amount, and address various other terms to be incorporated into the PILOT agreement. The Assessing Department then makes an initial draft of the agreement which is forwarded to the organization for further review. Once approved, it is signed by all the necessary parties. The amount of contribution to be paid is based on a percentage of the normal property tax or tax estimate for the improvement. In addition the program allows that a portion of the payment be made via direct community services or monetary donations to other city-sponsored or sanctioned community programs.

I understand that the Board and the Moderator are in the process of appointing a PILOT Review Committee. I recommend that a copy of this memorandum be given to appointees to this Committee. I also would be glad to look into further issues with respect to PILOT Programs to the extent requested by the Board.

### CONCLUSION

Based on the foregoing discussion, before SMOC can use the facility at 517 Winter Street for a non-residential purpose, it must either show that the use will not be substantially more detrimental than the existing nonconforming use to the neighborhood or that it is an allowed use in this zoning district pursuant to G.L. c. 40A, § 3. As it is unlikely that SMOC will have obtained the necessary permits to begin this use before the Town meets the notification requirement for the amendment to the By-Law, SMOC's use of the property may be subject to some form of review and regulation pursuant to By-Law Section IV for site plan review and parking. The Town should consider adopting a PILOT Program that is similar to Boston's program; however, it is recommended that the scope of the program be expanded to include existing organizations.

*2005 07.22 Memo to BOS on Project at 517 Winter Street and Dover Amendment Uses (600-109)*