

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

SOUTH MIDDLESEX OPPORTUNITY
COUNCIL, INC. and SOUTH MIDDLESEX
NON-PROFIT HOUSING CORPORATION,

Plaintiffs,

v.

TOWN OF FRAMINGHAM,
PETER C. S. ADAMS, STEVEN ORR,
LAURIE LEE, and CYNTHIA LAURORA,
in their individual capacities and
as they are Framingham Town Meeting Members,
DENNIS GIOMBETTI, GINGER ESTY, and
JASON SMITH, in their individual capacities
and as they are members of the Framingham
Board of Selectmen,
SUSAN BERNSTEIN, CAROL SPACK,
ANDREA CARR-EVANS and ANN WELLES,
in their individual capacities, and as they are
members of the Framingham Planning Board,
ALEXIS SILVER and JULIAN M. SUSO, in
their individual and official capacities,
HAROLD WOLFE and ANTHONY SICILIANO,
individually, and
JOHN DOES I-V, AND JANE DOES I-V,
in their individual and official capacities,

Defendants.

Civil Action No.

VERIFIED COMPLAINT AND JURY TRIAL DEMAND

INTRODUCTION

1. This is a case about an unlawful pattern of discrimination against the most vulnerable among us – the disabled. Beginning in 2005, and continuing to this day, each of the Defendants at various times joined in a coordinated effort to rid the Town of Framingham (“the Town”) of its disabled population; a population Defendants variously refer to as “problem people”, “charity cases”, “not desirable”, “human waste” “dregs of society” and far worse. As

their means towards this illegal goal, Defendants have taken aim at various nonprofit social service agencies that dare to care for and assist this population. Via unlawful threats, intimidation and coercion designed to interfere with the provision of basic housing and social services to the disabled, Defendants have deprived this vulnerable population of their basic civil rights and threaten to continue to do so into the future unless stopped.

2. Defendants took aim, in particular, at Plaintiff South Middlesex Opportunity Council, Inc. ("SMOC"), a nonprofit educational and social service provider, when it proposed in 2005 to relocate its Sage House Program, a residential treatment program for recovering substance abusers and their families with a sixteen-year successful track record, from one Framingham address to another. Neighbors to the proposed new site were up in arms that "drug addicts" would be moving into their neighborhood. A vocal minority of neighbors as well as elected and appointed Town officials, joined together with other members of Town government to make sure that did not happen. The effort was, in fact, led by the Town and certain of its elected and appointed Town officials who acted both in and outside of their official capacities and who have each become so caught up in their own personal biases and furthering their own private interests, and so influenced by pressures from their neighbors and constituents, that they have forgotten their duty to follow the law.

3. Although Defendants have attempted to cast their contempt for the disabled as "concerns" that the Town has already "done its share," that taxpayer dollars are supposedly being spent to provide a disproportionate share of municipal services to social service programs and that property values will drop in areas surrounding social service facilities, their own words expose the shocking depth of their intolerance. As one Defendant, Peter C.S. Adams, a resident of Framingham and an elected Town official put it:

One of my biggest criticisms of the current state of the law in this area is that recovering drug addicts (and it is absurdly easy to become legally "recovering") are afforded the same "disabled" status as veterans whose legs were blown off in the war or folks who were born blind. These voluntarily disabled people are more than a 'loophole' in the law, they are walking insults to the truly disabled and water down the word "disabled."

4. Defendants' ultimate message is loud and clear: "We don't want those people in our town." "Those people" are mothers and fathers with sons and daughters who want nothing more than to live safe, meaningful and productive lives, but who need a roof over their heads, support and education to make that happen. They are disadvantaged adults who have been diagnosed with mental health disabilities or who have struggled with substance abuse problems and are now dedicated to recovery, or both. They all need compassion, shelter and training. "Those people" are disabled and needy and many would be wandering the streets without treatment if there was no one to help them. They are protected by state and federal law precisely to prevent the type of ugly and pernicious discrimination that Defendants have perpetrated here.

5. Defendants' campaign over the past two years has included, without limitation, the malicious publication of a continuous stream of false and defamatory statements about SMOC and its disabled clients, including outrageous lies and outright threats made in an effort to intimidate SMOC and its employees and to dehumanize the disabled population served by SMOC. With the blessing of the Town and the assistance of a small group of private residents, elected and appointed Town officials have misused and manipulated the Town's limited zoning oversight to stall the Sage House Program for more than two years. They have anonymously leaked a confidential report about an unfinished investigation to other Defendants who then mischaracterized its contents and plastered it across the Internet. They have abused their official status to gain, unlawfully, entry to SMOC facilities and to "stop and question" frightened homeless people on their way in and out of overnight shelters. And in a stated effort to put an end to new social services programs in the Town altogether, Defendants have now used some of these same tactics and an Orwellian interpretation of law to prevent SMOC from opening Larry's Place, a residential treatment and training program for homeless disabled veterans of this country's Armed Forces.

6. Most recently, the Town, recognizing the tax exempt, nonprofit status of SMOC, cleverly devised a so-called "voluntary" payment program – dubbed the "PILOT program" – so that SMOC may of its own accord "contribute" to the Town. The program is unprecedented

in that it is aimed directly and explicitly at seeking payments from nonprofit social services who are legally exempt from making such payments. The not so subtle message of the PILOT program, however, is to tell SMOC that, in reality and despite its nonprofit status, if it wants cooperation in the Town so that it may fulfill its mission to serve the disabled, it must pay despite the law and its legal status. Such payments are about as voluntary as the payment of “protection” money just to be left alone by those doing the “protecting.” The Town’s willingness to target SMOC and other nonprofit social service agencies for payment makes clear the discriminatory animus against the disabled which exists within the Town governance. The threat, intimidation and coercion here may be subtle and clever, but it is no less unlawful.

7. Defendants’ coordinated actions have had a devastating effect on the disabled individuals and families SMOC serves by impeding or eliminating their opportunities to move forward in their recovery and community re-integration. Relocation of the Sage House Program was wrongfully delayed for more than two years, at extraordinary expense. Larry’s Place has been stalled altogether. Families that could have been living together and focusing on recovery were instead forced to live apart, with parents in single adult homeless shelters and children in DSS foster care, awaiting program placement to reunite them. Homeless disabled veterans who served their country faithfully are left to choose between emergency overnight shelters and the streets. Defendants’ campaign has also taken a heavy toll on SMOC’s reputation and the more than four decades of goodwill SMOC worked hard to build in the community. It has caused SMOC a significant financial hardship and frustrated its efforts to fulfill its mission to provide services to disabled individuals. For this the Defendants are liable.

8. Plaintiffs are in fear that because they have taken this legal action against the Defendants named herein there will be a further backlash against them and the population they serve as they continue to provide services in the Town of Framingham. Accordingly, Plaintiffs include herein a prayer for relief that the Court take supervisory authority and jurisdiction over the Town of Framingham’s actions to ensure compliance with the Fair Housing Act, 42 U.S.C. §3601 et seq., the Americans with Disabilities Act, 42 U.S.C. §§12101 et seq., the Federal

Rehabilitation Act of 1973, 29 U.S.C. §§794 et seq., the Dover Amendment, G.L. c. 40A, §3, and all other applicable federal and state laws. Plaintiffs' reserve their right to seek a preliminary, affirmative injunction to this effect during the pendency of this litigation.

PARTIES

9. Plaintiff South Middlesex Opportunity Council, Inc. ("SMOC") is a nonprofit educational corporation lawfully organized pursuant to G.L. c. 180 with an educational and social and educational services mission. It is a charitable organization under Section 501(c)(3) of the Internal Revenue Code and under G.L. c. 59, § 5. SMOC's Administrative Offices are located at 300 Howard Street in Framingham, Massachusetts. Formed in 1965, SMOC provides a broad range of social services to disadvantaged, disabled adults and their children across the Metrowest region of Massachusetts. SMOC's continuum of care for this disabled population is viewed as a national model.

10. Plaintiff South Middlesex Non-Profit Housing Corporation ("SMNPHC") is a nonprofit educational corporation lawfully organized pursuant to G.L. c. 180 with an educational and social service mission. It is a charitable organization under Section 501(c)(3) of the Internal Revenue Code and under G.L. c. 59, § 5. SMOC formed SMNPHC in 1986 as its wholly owned subsidiary.

11. Defendant the Town of Framingham is a body corporate and politic established under the laws of the Commonwealth of Massachusetts. The Town is a "public entity" within the meaning of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12131(1); and, on information and belief, a recipient of federal financial assistance through various programs and activities administered by departments and agencies of the United States within the meaning of the Federal Rehabilitation Act, 29 U.S.C. § 794. Framingham has adopted a "limited town meeting" form of government, pursuant to which executive authority is vested in an elected Board of Selectmen and a Town Manager. The Framingham Planning Board is responsible for the adoption and implementation of Framingham's land use and municipal planning policies. The Planning Board consists of five (5) elected members and one (1) appointed associate

member. The Planning Board is the “special permit granting authority” for most special use permits in the Town of Framingham.

12. Defendant Peter C.S. Adams is an individual residing in Framingham, Massachusetts. He is an elected Framingham Town Meeting Member for Precinct 11 and a founder and the Director of Communications of Stop Tax Exempt Private Property Sprawl (“STEPPS”). STEPPS is an unincorporated association dedicated to blocking social service agencies which provide services to those whom Adams and others aligned with him view as undesirable disabled individuals from operating in Framingham and, therefore, to depriving the neediest in our society of the services and help they need to get on their feet and contribute to society. In late May or early June 2005, Adams set up a website for STEPPS at www.steps.info, for which he is listed as the registrant, administrative and technical contact. Adams and his co-conspirators, which include other members of STEPPS, and other elected or appointed Town officials, use STEPPS and its website at www.steps.info to spread malicious and defamatory lies about SMOC, to attack SMOC and the disabled population it serves, and to gain support for their ultimate goal of shutting SMOC down and driving the most vulnerable disabled population out of Framingham. Adams and his co-conspirators raise funds to support these unlawful purposes by soliciting donations on and selling merchandise through a link on the STEPPS website. Adams was elected as a Town Meeting Member in March 2007 and now uses his status as an elected Town official to attempt to attach credibility to his words and actions, and to raise and vote on measures as a Town Meeting Member in a manner designed to further his private financial interests as a taxpayer and property owner, and the private, unlawful agenda he shares with his co-conspirators. On information and belief, Adams is also the Director of Communication and Information Technology for the College of Public and Community Service at the University of Massachusetts at Boston (“UMass-Boston”) and in that position, he is responsible for the web, email and file servers for the College of Public and Community Service. The UMass-Boston written Information Technology Acceptable Use Policy provides that “computers and networks are funded by a variety of State and University sources. University

employees and students may use Information Technology resources only for work done for the University, and only when it is appropriate that the work be supported by public funds. Personal, for profit activities are explicitly forbidden.” Thus, while purporting to claim concern for the taxpayer dollars he and his co-conspirators proclaim, wrongly, are disproportionately used by social service agencies and their clients, in direct violation of the UMass-Boston use policy, Adams has himself used and continues to use his publicly-funded and supported UMass-Boston email to disseminate false and defamatory statements about SMOC, to proliferate hate and outright discrimination against SMOC and the disabled population it serves, and to raise funds and garner more support for his cause. Adams also used his UMass-Boston address and telephone number as his contact information to register the STEPPS website.

13. Defendant Steven Orr is an individual residing in Framingham, Massachusetts. He is an elected Framingham Town Meeting Member for Precinct 1 and a member of the Town’s Social Service PILOT and Comparative Impact Study Committee (“PILOT Committee”). On information and belief, Orr operated Syslang, Inc., a for-profit corporation focused on systems software and language components until Syslang, Inc. was formally, involuntarily dissolved in 1998. Syslang, Inc. nevertheless continues to own and operate a website at <http://www.syslang.net>, which is accessible as of today and for which Orr is listed as the “administrative contact”, although the only content on the website appears to be Orr’s resume. Orr uses the website to operate <http://frambors/syslang.net> (“Frambors”), which is a web listing where those who join may view and post messages on an interactive board. The Frambors web listing may be accessed directly from the STEPPS website. Orr has used this web listing to disseminate his own and others’ false, defamatory and inflammatory statements about SMOC and its disabled clientele. Frambors contains a link to the STEPPS website and describes STEPPS as “a group whose mission is to educate the public and advocate changes in government towards the goal of basic fairness in the hosting of tax-exempt private properties.” Orr runs a separate web board for Town Meeting Members to post messages; access to the separate web board is limited to Town Meeting Members. Frambors also contains a link to the Syslang

website which is used to direct Internet traffic to Orr's resume and, therefore, to assist Orr in obtaining consulting work. Orr has appeared with and spoken in support of STEPPS members at Board of Selectmen meetings and has participated as a private citizen and as an elected Town official in a coordinated effort with the other Defendants to defame SMOC and to violate the federal and state secured rights of SMOC and its disabled clients.

14. Defendant Cynthia Laurora is an individual residing in Framingham, Massachusetts. She is an elected Framingham Town Meeting Member for Precinct 11, an appointed member of the PILOT Committee and a co-author of the PILOT Committee Majority Report. Laurora is also an active member of STEPPS. Laurora has appeared at Planning Board meetings and public hearings and made presentations on behalf of STEPPS. She has participated as a private citizen and as an elected Town official in a coordinated effort with the other Defendants to defame SMOC and to violate the federal and state secured rights of SMOC and its disabled clients.

15. Defendant Laurie Lee is an individual residing in Framingham, Massachusetts. She is an elected Framingham Town Meeting Member for Precinct 1 and a Precinct 1 Officer in the position of Clerk, an appointed member of the PILOT Committee and a co-author of the PILOT Committee Majority Report. On information and belief, Lee is a member of or is otherwise affiliated with STEPPS. She has participated as a private citizen and as an elected Town official in a coordinated effort with the other Defendants to defame SMOC and to violate the federal and state secured rights of SMOC and its disabled clients.

16. Defendant Dennis L. Giombetti is an individual residing in Framingham, Massachusetts. He is the Chairman of the Framingham Board of Selectman and he has used this position to participate in a coordinated effort with the other Defendants to defame SMOC and to violate the federal and state secured rights of SMOC and its disabled clients.

17. Defendant A. Ginger Esty is an individual residing in Framingham, Massachusetts. She is a member of the Framingham Board of Selectmen and she has used this

position to participate in a coordinated effort with the other Defendants to defame SMOC and to violate the federal and state secured rights of SMOC and its disabled clients.

18. Defendant Jason A. Smith is an individual residing in Framingham, Massachusetts. He is the Vice-Chair of the Framingham Board of Selectmen and he has used this position to participate in a coordinated effort with the other Defendants to defame SMOC and to violate the federal and state secured rights of SMOC and its disabled clients.

19. Defendant Susan Bernstein is an individual residing in Framingham, Massachusetts. She is, and at all relevant times has been a member of the Framingham Planning Board. Improperly influenced by the attacks by STEPPS members and others coordinating with them, including elected and appointed Town officials and in furtherance of their coordinated efforts, Bernstein has used her position on the Planning Board unlawfully and purposefully to impose hurdles and requirements beyond the Planning Board's authority on SMOC in its attempt to site social service projects designed to house and educate disabled individuals.

20. Defendant Carol Spack is an individual residing in Framingham, Massachusetts. She is, and at all relevant times has been a member of the Framingham Planning Board. Improperly influenced by the attacks by STEPPS members and others coordinating with them, including elected and appointed Town officials and in furtherance of their coordinated efforts, Spack has used her position on the Planning Board unlawfully and purposefully to impose hurdles and requirements beyond the Planning Board's authority on SMOC in its attempt to site social service projects designed to house and educate disabled individuals.

21. Defendant Andrea Carr-Evans is an individual residing in Framingham, Massachusetts. She is, and all relevant times has been a member of the Framingham Planning Board. Improperly influenced by the attacks by STEPPS members and others coordinating with them, including elected and appointed Town officials and in furtherance of their coordinated efforts, Carr-Evans has used her position on the Planning Board unlawfully and purposefully to impose hurdles and requirements beyond the Planning Board's authority on SMOC in its attempt to site social service projects designed to house and educate disabled individuals.

22. Defendant Ann Welles is an individual residing in Framingham, Massachusetts. She is the Chair of the Framingham Planning Board, and at all relevant times has been a member of the Framingham Planning Board. Improperly influenced by the attacks by STEPPS members and others coordinating with them, including elected and appointed Town officials and in furtherance of their coordinated efforts, Welles has used her position on the Planning Board unlawfully and purposefully to impose hurdles and requirements beyond the Planning Board's authority on SMOC in its attempt to site social service projects designed to house and educate disabled individuals.

23. Defendant Alexis Silver is an individual residing in, on information and belief, Jamaica Plain, Massachusetts. She is and has been, since approximately January 2007, the Human Services Coordinator for the Town of Framingham, a position created on recommendation of the PILOT Committee. Silver has used her position as Human Services Coordinator to participate in a coordinated effort with the other Defendants to defame SMOC and to violate the federal and state secured rights of SMOC and its disabled clients.

24. Defendant Harold J. Wolfe is an individual residing in Framingham, Massachusetts. Wolfe operates a website entitled "STOP SMOC" at www.smocingham.com dedicated to spreading false, malicious and defamatory lies about SMOC and its disabled clientele. Wolfe set up the STOP SMOC website in late May or early June 2005, essentially contemporaneously with Adams' creation of the STEPPS website. On his website, Wolfe offers for sale signs reading "STOP SMOC" in exchange for "small contributions" of \$10-\$25, purportedly to be paid to "elect Harold J. Wolfe." As evidence of Wolfe's coordination with members of STEPPS and others working with them, the STOP SMOC website contains a link to the STEPPS website, allowing one who visits www.smocingham.org easily to visit the STEPPS website at the click of a button.

25. Defendant Julian M. Suso is an individual residing in Framingham, Massachusetts. He is and has been at relevant times the Framingham Town Manager. On information and belief, Suso was aware of and participated in the common scheme to obstruct

SMOC from siting social service projects aimed at housing and educating disabled individuals and their families and thereby violating the federal and state secured rights of SMOC and its disabled clients.

26. Defendant Tony Siciliano is an individual in Framingham, Massachusetts. Siciliano has used Frambors to disseminate hateful, false and defamatory statements about SMOC and its disabled clients. On information and belief, he acted in concert with STEPPS, Orr and other individuals, including elected and appointed Town officials in a common scheme to defame SMOC and to violate the federal and state secured rights of SMOC and its disabled clients. In one particularly hateful rant against SMOC and the recovering drug addicts it helps, Siciliano posted on Frambors on September 4, 2005, "What burns my ass is the definition of these people as being disabled. People who are in wheelchairs are disabled. People missing a limb are disabled. Retarded people are disabled. Drug addicts are criminals. Period. . . . An allegedly recovering drug addict keeps tons of money in Jim Cuddy's pocket, but is as useless to society as a dead dog. In fact, I would prefer the dog. These dregs of society had their chance to make their lives whole."

27. Defendants John Does I-V and Jane Does I-V are anonymous members of the Framingham police department and/or other elected or appointed Town officials or employees who have joined in and engaged in acts in furtherance of the conspiracy alleged herein by, among other things, on information and belief, publishing defamatory statements of and concerning SMOC and wrongfully and secretly leaking to Orr and others a confidential report made pursuant to G.L. c. 119, § 51A concerning alleged actions of three SMOC employees in an effort to aid Orr, Adams, STEPPS and the other co-conspirators in their efforts to defame SMOC and to violate the state and federal secured rights of SMOC and the protected, disabled recipients of its services.

28. As used herein "Individual Defendants" refers collectively to Adams, Orr, Lee, Laurora, Giombetti, Esty, Smith, Bernstein, Spack, Carr-Evans, Welles, Silver, Suso, Wolfe, Siciliano, and John Does I-V and Jane Does I-V.

JURISDICTION AND VENUE

29. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§1331 and 1367. Venue in this Court is proper under 28 U.S.C. §1391.

FACTS

SMOC and its Mission

30. SMOC is a regional anti-poverty Community Action Agency that was established in 1965 as part of the nation's "War on Poverty" in connection with the Federal Economic Opportunity Act of 1964. It serves the greater Metrowest region of Massachusetts with approximately 650 employees and an annual budget of nearly \$60 million. SMOC is governed by a 30-member Board of Directors, ten of whom reside in the Town of Framingham, the largest population center in the Metrowest region. SMOC provides a broad range of social, educational, rehabilitative, community development and economic development services to disadvantaged and disabled adults and their children.

31. SMOC's mission is to improve the quality of life of low-income and disadvantaged individuals and families by advocating for their needs and rights; providing services; educating the community; building a community of support; participating in coalitions with other advocates and searching for new resources and partnerships. Lack of educational opportunity, low wages, unavailability of decent affordable housing, lack of child care, substance abuse or mental illness, or a combination of these things, contribute to the conditions which hold people back from reaching their full potential. SMOC works with each individual and family to correct these conditions and assist them to move to successful community living where they are able to contribute their energy and skills to the improvement of the quality of their own lives and to the betterment of the community at large.

32. Over the past three decades, the Commonwealth has decentralized the provision of social services, moving from state-provided services to community-based services provided by private nonprofit corporations operating under contract with the Commonwealth. As the need for private social services has grown, SMOC has worked diligently to design, attract and

implement programs that would meet the agency's mission of providing the ways and means for people to meet their needs and keep moving forward. Through planned and purposeful growth, SMOC has established and maintained programs designed to meet the immediate human needs of disadvantaged and disabled individuals by allowing them to live in dignity while using the tools of education, job skill development, good health and affordable housing to help build the foundations for their eventual economic independence.

33. SMOC today serves more than 21,000 people annually through the more than 75 programs it operates under contract to the state and federal government. SMOC offers a complete continuum of care to those it serves with programs including, by way of example only:

- The Head Start and Child Care programs provide early developmental growth opportunities for children and their families.
- The Women Infant and Children (WIC) provides opportunities for wholesome nutritious foods for low-income families.
- The Meals on Wheels and Elder Congregate Meals programs provide opportunities for good nutrition for many hundreds of senior who might otherwise be pushed to dangerous and difficult choices because of inadequate income or resources.
- The Energy and Financial Assistance programs provide critical support for low-income families and individuals, many of whom are our elderly neighbors, to keep their homes warm during the winter months, again, without forcing cruel choices that would force families to forego some basic necessities such as food or health care as they exhaust their meager resources.
- Behavioral Health Services provide individuals and families with supports that permit people with mental illness to fully participate in the life of our community, and permits people with substance abuse histories to beat their addictions, commit to recovery, reconnect with their families, get jobs and move to successful independence.
- Housing subsidies and supported housing provides disadvantaged and disabled individuals and their families with an affordable home where people can concentrate on building skills and stable home lives for future growth and success.

- Voices Against Violence provides safe haven for families fleeing domestic violence and for women who have suffered violence, assault, abuse and rape. This program provides a time and a place to heal for many hundreds of our neighbors and families.
- Economic Development programs provide adult education, daily living skill development, employment search and placement and other support services that assist low-income residents to obtain and sustain jobs, thus creating the means for personal development and economic growth and independence.
- Emergency Shelter programs meet the truly profound needs of individuals and families who have exhausted all their personal, family and community connections and resources and have found themselves in desperate need of safe shelter from the elements and the dangers of the street.

34. SMOC's housing continuum offers the services and support to allow the homeless individuals and families it serves to move from homelessness and hopelessness to permanent residences with hope for the future. It is an outgrowth of the agency's commitment to providing affordable housing for the homeless. Beginning in the mid 1980s, SMOC began to acquire former nursing homes and boarding houses and to convert them into single-room-occupancy and family housing for the homeless. Many who live in this housing suffer from both substance abuse and mental illness.

35. In 1986, SMOC created SMNPHC as its wholly owned subsidiary to address the need for safe, decent and affordable housing for low-income families, individuals and disabled adults. SMNPHC is a full service real estate organization that performs all property and asset management functions. The chief mission of SMNPHC is to preserve and improve existing affordable housing and to develop new housing choices for low- and moderate-income residents. SMNPHC has demonstrated an imaginative approach to regional housing needs by integrating human services, including comprehensive educational programs, with rental and program units serving individuals and families while providing safe, decent, and affordable housing choices for area households.

36. The primary goals of SMNPHC are:

- To own, develop, and manage the agency's real estate portfolio;

- To develop and expand the supply of affordable housing for individuals and families;
- To provide tenants and program participants education and training for homeownership and job training and basic life skills, facilitating them in achieving economic and personal self-sufficiency promotion; and
- To promote and engage in community economic development initiatives and neighborhood revitalization.

37. James T. Cuddy (“Mr. Cuddy”) joined SMOC in 1985 as its Executive Director, the position he holds today. Mr. Cuddy reports directly to the Board of Directors and oversees all employees and all aspects of operations of the organization. In more than two decades with the organization, he has been at the forefront of much of the organization’s growth and the implementation of many of the programs that exist today. Mr. Cuddy is the public face of SMOC and has become a scapegoat in Framingham for the Individual Defendants and others opposed to social service agencies and to the disadvantaged and disabled individuals and families they serve.

38. Gerard E. Desilets (“Mr. Desilets”) has been with SMOC since 1999, with limited exception, first as its Director of Behavioral Health Services and, since 2000, as its Director of Planning, Policy Development & Community Relations. In that role, Mr. Desilets directs the agency’s policy agenda, education and outreach, develops and maintains positive working relationships with state agencies, area elected and appointed officials and community leaders in the public and private sector. Mr. Desilets has a long history as a public servant in the Commonwealth and in Framingham Town government. He is a lifetime resident of Framingham and well known in the community. He has been a constant target of the Individual Defendants’ personal and public attacks.

The Dover Amendment

39. Under Massachusetts law, nonprofit educational corporations like SMOC are offered special zoning relief when they site facilities or programs with an educational purpose under G.L. c. 40A, §3 (“the Dover Amendment”), which provides in relevant part:

No zoning ordinance or by-law shall regulate or restrict the interior area of a single-family residential building nor shall any such ordinance or by-law prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a non-profit educational corporation; provided, however, that 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.

40. To qualify for Dover Amendment protection, a party must show (1) that it qualifies as a nonprofit educational corporation and (2) it intends to use the property for educational purposes. SMOC and SMNPHC both meet the first requirement as they are nonprofit educational corporations within the meaning of the Dover Amendment. The second requirement is specific to the property at issue and the use to be made of it.

The Hostile Climate for Nonprofit Social Service Agencies In Framingham

41. SMOC has operated in Framingham for more than four decades and has served hundreds of thousands of people in need in the Town and the surrounding Metrowest area. Until the past few years, SMOC always had a good relationship and open dialogue with the Town, elected and appointed Town officials, and the Police Department and Building Department in Framingham. Recently, a vehement anti-social service and anti-disabled campaign has emerged among elected and appointed Town officials and a relatively small group of private residents.

42. Troubles began to surface in late 2002 when Wayside Youth and Family Support Network, Inc. ("Wayside"), a nonprofit social service agency, began to develop a campus program for adolescents with serious emotional and learning disabilities on a former landfill adjacent to a Framingham residential neighborhood. A group of neighbors to the project, including Town Meeting Members, formed an unincorporated association, and began an active campaign in opposition to the Wayside project. The Wayside project struck a nerve with the Town and the community and questions began to arise about the burden social service agencies allegedly place on the Town.

43. The Board of Selectmen, obviously swayed by political pressure, flexed its muscle under the Public Way Access Permit (“PWAP”) By-Law to require Wayside to appear before it for evidentiary hearings on its application for a PWAP and ultimately, to deny the PWAP and stall the project. These hearings were unprecedented in the ten-year history of the By-Law. Wayside challenged the decision in Wayside Youth and Family Support, Inc. et al v. Town of Framingham et al, Civil Action No. 2006-11060-LTS (D. Mass.) and, on May 22, 2007, the Court reversed the decision of the Board of Selectmen.

44. Other social service agencies’ efforts to site programs for their needy, sick or disabled clients have been obstructed by the Town. When Great Brook Valley Health Center, Inc., a nonprofit healthcare provider servicing low income individuals, sought to build a health center in downtown Framingham, the Planning Board denied its permits and halted the project. Great Brook Valley has challenged the denial of its permits in Federal Court in Great Brook Valley Health Center, Inc. v. Town of Framingham, Civil Action No. 2006-11546-JLT (D. Mass.). The case is pending. When Advocates, Inc., a nonprofit educational corporation which operates group homes for mentally ill adults tried to site a residential treatment facility for eight individuals with Prader-Willi syndrome, a genetic disorder characterized by food preoccupations, it faced (and continues to face) staunch and, at times, ugly opposition from the Town, neighbors to the project, and individual Town officials.

45. With time, the animus in Framingham towards social service agencies has only intensified. While opponents claim that they are concerned that Framingham is “overburdened”, that the Town has done its “fair share” and that tax dollars and property values are compromised by the presence of social service agencies, the subtext is not too difficult to see: Framingham already has too many disabled individuals who need housing and social services, and social service agencies act as magnets to bring these “undesirables” into the community. Town officials, pressured by their neighbors and constituents, and motivated by their own private interests and prejudices, have made it clear that they see it as their mission to slow, stop or reverse this process.

46. SMOC has become a lightning rod for these issues, and the disabled population it serves has become public enemy number one in Framingham.

**Actions in Furtherance of the Conspiracy to Defame SMOC
and to Violate the Civil Rights of SMOC and its Disabled Clients**

The Sage House Program

47. The Sage House is the program name for a supportive residential treatment program operated by SMOC for previously homeless and at-risk families where one or both parents suffer from substance abuse disabilities and are in recovery (“the Sage House Program”). The program’s goal is the successful reunification of families who have experienced homelessness and whose head of household has struggled with substance abuse issues. SMOC has operated the Sage House Program continuously as a Dover Amendment exempted use at 61 Clinton Street in Framingham since 1991

48. The Sage House program is a fully-staffed family treatment program providing substance abuse treatment and support services for homeless or at-risk families in a structured and comprehensive rehabilitative environment. The Sage House Program is licensed by the Massachusetts Department of Public Health and is the only residential family program in the Commonwealth of Massachusetts for fathers who head households, as well as for two-parent families who seek residential treatment to further their recovery as a family. It is a “closed referral” program, meaning all families are referred to the program through a central intake process operated by another nonprofit vendor of the Commonwealth, Institute for Health and Recovery (“IHR”). Families are placed in the Sage House Program through IHR after they qualify either through the Massachusetts Department of Transitional Assistance or directly through IHR.

49. The Sage House Program provides staff on site at all times, twenty-four (24) hours a day, seven (7) days a week. Families participate in the program for six (6) to eight (8) months, during which time parents and children receive a variety of supportive services, including relapse prevention groups, group and individual counseling, and vocational training.

Staff assists families in acquiring permanent, affordable housing, as well as medical, educational, vocational, and social services and referrals. The Sage House Program has proven to be extraordinarily successful in helping families living in recovery from substance abuse go on to live together as families and as contributing members of society without relapse.

50. The Department of Public Health's Bureau of Substance Abuse Services requires all substance abuse treatment programs to submit statistical data in the form of the Management Information System (MIS), which is based on federal reporting requirements. This system is designed to provide timely reports on client characteristics at intake, client status at discharge, and client change between admission and discharge. The most recent Sage House Site Visit Report for FY 2007 has shown success rates well above state average:

Discharge Status:

The 2007 report shows that **83.3%** of the clients discharged from the Sage house Program completed and graduated from the program. This is in comparison to the 2007 state average, which was 45.2%.

Goal Achievement:

The 2007 report shows that **71.4%** of the clients that completed the Sage House Program achieved all their treatment goals. This is in comparison to the 2007 state average, which was 49.6%.

51. These numbers represent real people with disabilities who have literally turned their lives around. By way of example, the following snapshots show two of the families that have successfully completed the Sage House Program in the last couple of years:

(i) ***The "B" Family*** – A young couple entered into the Sage House Program during the spring of 2006. Both individuals had an extensive substance abuse history. Their baby was so addicted to heroin that he needed to be medically monitored in the hospital for thirty days prior to entering the Sage House. The Department of Social Services ("DSS") had intervened and given the parents the choice of going into residential treatment or losing custody. After learning about the Sage House Program and the responsibilities and expectations they would have to meet if enrolled, the couple decided to be admitted to the program in order to

learn the skills required to maintain their recovery and ultimately to sustain their reunified family. After thirty (30) days in the program, the couple was reunited with their baby. As time passed, both parents began to actively participate in all aspects of the program and in preparing for the next step in their lives. They also worked closely with a housing worker to establish a housing plan as they anticipated their completion of the program. The mother enrolled in GED classes offered at SMOC's adult learning center. The father began to work in an electrician business. During this same time period, the parents regained legal custody of their child and continued to maintain a positive relationship with DSS for support. Just shy of six months in the program, the family successfully completed the program and moved into an apartment in a building managed by SMOC. After a few more months of stability, they received a housing subsidy and moved into their own apartment in the Marlboro area. Both parents have since been able to maintain employment, while continuing to strive for better employment goals. Inspired by the help she had received, the mother completed her GED and intends to pursue her education in the field of Social Work and is interested in working with families. The father continues to be an electrician's apprentice and is going to school to gain certification.

(ii) *The "M" Family* – The "M" family entered the program in the winter of 2005. The family consisted of a couple and their two children, ages 4 and 5. The parents had a long history of substance abuse and both parents stated that they continued to actively use heroin until they entered a methadone program prior to entering the Sage House Program. After this couple experienced a few serious difficulties in their road to recovery and weathered the challenges, they both became more determined to succeed and complete the program. The father began working nights as a mason at a local mall while continuing his therapeutic and life skills programming. The mother continued to actively participate in the Sage House programming and expanded her recovery to involve other community people living in recovery. At the completion of seven months of the program at Sage House, the family was able to successfully transition out of the program into their own subsidized apartment. The family continues to live independently, the mother is enrolled in a local college participating in a certificate program in human services,

the father continues to work as a mason and the two children are enrolled in a Catholic school in the area.

Plans to Relocate and Expand the Sage House Program

52. In its most recent contracting process, the Department of Public Health requested that providers like SMOC expand the number of families for whom they could offer residential treatment in programs like the Sage House Program at any one time.

53. In response to this request, in June 2005, SMOC purchased a building and land located at 517 Winter Street for the purpose of relocating the Sage House Program to this location. The building at 517 Winter Street is a 10,750 square foot, two and one-half story former mansion that was converted from residential use to a 55-bed nursing home facility in 1960 and operated as a nursing home until SMOC purchased it. The Winter Street location is thus a larger, more up-to-date facility than the existing Clinton Street property and it will allow SMOC to expand the number of families its serves in the program.

54. The expanded Sage House Program will carry forward at 517 Winter Street the successful program that has operated at 61 Clinton Street for the past 16 years. At Clinton Street, SMOC was able to serve up to seven (7) families. The larger facility is able to house up to fifteen (15) families (or 35-40 individuals) at any one time. The Sage House Program is fully staffed in accordance with the staffing requirements of the Massachusetts Department of Public Health – Bureau of Substance Abuse (“BSAS”). Like the Clinton Street Sage House Program, staff are on site at all times, twenty-four (24) hours a day, seven (7) days a week. Staff includes, at a minimum, a Program Director, a Clinical Director, a Family Therapist, a Child Services Coordinator, a Child Case Worker, and eight or nine Recovery Specialists. The Clinical Director and Family Therapist are Master’s level professionals and direct the day-to-day clinical services.

55. The Sage House Program provides a wide range of services in a family focused treatment and recovery educational model, utilizing a comprehensive community-based approach to sustain a culture of recovery. Educational services include:

- on site family-based services;

- individualized substance abuse treatment plans;
- individual and group counseling;
- parenting skills education;
- domestic violence and trauma support and education;
- mental health assessment;
- structure for the children;
- aggressive housing search;
- educational/vocational assessment and referral;
- job training and search;
- access to physical health care;
- access to self-help resources;
- aftercare and discharge planning; and
- identification of and referral to any needed linkage or resource.

56. Each parent participant in the recovery program has 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 the program also has an individualized plan, overseen by child health and educational specialists, which outlines childhood education and details specific school and daily supervision requirements.

57. The Sage House Program provides much needed housing and education to eleven (11) to fifteen (15) families struggling to overcome the devastation of substance abuse problems. These are mothers and fathers looking only for an opportunity to remain in recovery and raise their children in a safe, clean home.

Unlawful Interference with SMOC's Plans to Relocate Sage House to 517 Winter Street

58. Community resistance to and interference from neighbors, the Town and Town officials with the relocation of the Sage House Program began even before SMOC completed its purchase of the Winter Street property. SMOC entered into a Purchase and Sale Agreement for

the property on March 9, 2005 and was in the process of completing due diligence and financing arrangements in anticipation of a June 15 closing, when rumors of the purchase and SMOC's proposal to relocate the Sage House Program began circulating. Almost immediately, a small group of neighbors of the Winter Street property, led by Adams, formed STEPPS, in their own words, "to help stop a drug rehab from opening at 517 Winter Street and stem the growth of tax exempt social services in Framingham." Adams and other STEPPS members created the inflammatory STEPPS website, and later began collecting donations and selling items to raise money for their "cause" through a link on the website. As evidence of the coordination between Defendants, the STEPPS website contains a link to Frambors and credits a May 16, 2005 post on the Frambors site as the impetus for the creation of STEPPS. The website states:

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**.

A true and correct copy of a print out of the page from the STEPPS website is attached at Exhibit 1 (emphasis added). The underlined text indicates a live link to Frambors on the STEPPS web site. The statement is false and defamatory in that there was nothing secret about SMOC's purchase of the property and the project planned for it is the Sage House Program, a residential family treatment facility and not a "homeless drug rehab shelter." The clear defamatory implication of the statement is that SMOC intends to place a shelter for active drug users on Winter Street. The STEPPS website also has a live link to Wolfe's A Better Framingham website at www.abetterframingham.org, the sister website linked to the STOP SMOC website.

59. On or about May 19, 2005, on information and belief, at the urging of Adams and others coordinating with him, STEPPS member Mary Westwater addressed the Board of Selectmen about SMOC and 517 Winter Street during the public participation session. During her speech, she stated that SMOC's "most likely use [for the Winter Street property] would be

for a family shelter.” STEPPS members indicated that SMOC already had too many properties in Framingham, that the Town should not “import more charity cases” and that there should be “checks and balances” put “in place now or we will all be living in SMOCINGHAM.”

60. On May 27, 2005, with the assistance or at the urging of Adams, STEPPS prepared and delivered a memorandum to the Board of Selectmen raising six (6) “objections” and posing eighteen (18) “questions” related to SMOC’s purchase of the property (“STEPPS Memo”) and asked for a meeting with the Board of Selectmen. A true and correct copy of the STEPPS Memo is attached at Exhibit 2.

61. The STEPPS Memo made clear that if SMOC was going to use 517 Winter Street to provide services to disabled individuals, the group, which included elected Town officials, objected:

As residents of Framingham, and neighbors of the Framingham Nursing Home on 517 Winter Street, 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 . . . we have the following objections to the purchase of this property by SMOC . . .”

62. The objections and questions listed in the STEPPS Memo focused on complaints that the STEPPS participants believed that Framingham has too many social service agencies, that SMOC does not pay taxes, and the supposed “safety risk” posed by a “residence housing drug addicts, former prisoners or homeless” and asked, “[a]re we becoming SMOCINGHAM?” The STEPPS Memo also requested a meeting “with the Board of Selectmen, the Town Meeting Members of Precinct 11, along with the executive directors of SMOC to discuss all of these issues and questions.” 517 Winter Street is located in Precinct 11 where Adams and Laurora live and serve as Town Meeting Members.

63. The Memo was coupled with a false, inflammatory and defamatory public attack on SMOC and the disadvantaged and disabled population it serves which continues to this day. In an attempt to turn the public, the Town and other Town officials against SMOC and the disabled adults and their families who stood to benefit from the relocation and expansion of the

Sage House Program, Adams, Orr, and Wolfe and other members of STEPPS disseminated hateful and false propaganda about SMOC and its disabled clientele on the STEPPS website, on Frambors and on www.smocingham.org and via email (Adams using his UMass-Boston email). This was the beginning of what would ultimately become a much larger campaign to shut down SMOC and deprive the disabled population it serves of the help it needs and to do so in an ugly and financially motivated manner. By way of example only, Defendants disseminated the following false and defamatory statements of and concerning SMOC in May and June 2005:

(i) In late May or early June 2005, the STEPPS website published a picture of the 517 Winter Street property with the caption, “Will SMOC turn this lovely historic property on a quiet residential street into a **homeless drug rehab shelter**?” Further down on the page, STEPPS purported to answer its own question, “SMOC has bought [517 Winter Street] and is planning to turn it into a **homeless drug rehab shelter**.” A true and correct copy of this page from www.steps.info/issues.html is attached at Exhibit 3 (emphasis added).

(ii) On June 3, 2005, Peter Adams wrote, “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**.” A true and correct copy of Adams June 3, 2005 Frambors post is attached at Exhibit 4 (emphasis added).

(iii) On June 24, 2005, STEPPS member, Janice Skelley, wrote in an email, on behalf of STEPPS and, on information and belief, at the urging of and in coordination with Adams: “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**.” The email continued, “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.” A true and correct copy of the email is attached at Exhibit 5 (emphasis added).

(iv) The next day, Adams wrote falsely that “SMOC . . . asked the seller [of 517 Winter Street] to keep their arrangement ***secret***!” A true and correct copy of Adams’ email is attached at Exhibit 6 (emphasis added).

64. Defendants knew these statements and the clear innuendo of their statements were false and/or they acted in reckless disregard as to their truth or falsity when they published them. Without limitation, and by way of example only, there was nothing “secret” or “covert” about SMOC’s purchase of the Winter Street property and no basis for anyone to claim that SMOC asked the seller to keep the purchase a “secret.” Although it was a purchase of private property among private parties, SMOC did nothing to hide the fact that it was the buyer. It was also no secret that SMOC intended to use the property to relocate the Sage House Program, and thus Defendants knew that the property would be used as a residential family treatment program and not as a “homeless drug rehab shelter.”

65. At or around the same time, and as evidence of the coordinated effort between the Individual Defendants, including elected and appointed Town officials, on May 21, 2005, Orr posted on Frambors a copy of an email from a Town employee who asked to remain “anonymous.” The anonymous Town employee explicitly wrote to Orr, “I would appreciate you keeping this to yourself . . . If you do pass it on, I urge you to post it anonymously because I would like to keep my employment with the town.” With that condition, the unidentified Town employee said what he did not want attributed to him:

[W]ith the secrecy of confidentiality clauses in purchase and sale agreements, it is typically too late for homeowners to speak out and appeal to SMOC . . . **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 . . . [T]he people that SMOC delivers to our town are not Framingham people, they are **not desirable people** and they are from area’s [sic] well outside of here and also from out of state.

A true and correct copy of the full text of Orr’s May 21, 2005 posting of the full text of the anonymous Town employee’s email is attached at Exhibit 7 (emphasis added).

66. This ugly statement is not only false and defamatory, but it reveals the true, unlawful driving force behind the Defendants' concerted efforts: to keep those who are seen as a "problem people" and "not desirable" (although they are disabled and protected by law) from obtaining the housing and services they need from SMOC in Framingham so that Framingham will not have to deal with them. At or around the same time, Wolfe adopted the term "SMOCINGHAM" that had repeatedly been used by those affiliated with STEPPS, formed the STOP SMOC website and posted the same anonymous letter on www.smocingham.org after removing the author's request for anonymity from the text. A true and correct copy of that posting is attached at Exhibit 8. On information and belief, STEPPS printed the same anonymous letter on its website for a time, but ultimately took it down, although not before Wolfe "ripped" it from the STEPPS site and posted it on his own.

67. At or around the same time, Wolfe posted on the STOP SMOC home page a one-page "description" of SMOC which is false and defamatory virtually in its entirety. To this day, the "description" states that SMOC bought a nursing home at 517 Winter Street in Framingham to open a "wet shelter for drug addicts", falsely implying that SMOC intends to put a shelter for individuals with active substance abuse problems at 517 Winter Street in Framingham and that current residents of the Sage House Program are active drug users. Far worse, however, and shockingly, Wolfe initially posted on his home page the addresses for Messrs. Cuddy and Desilets, with links to maps to their houses. The addresses were posted after the false claim that SMOC intended to open a "wet shelter" on Winter Street in Framingham and indicated that SMOC should open "wet shelters" around the homes of Messrs. Cuddy and Desilets, adding with respect to Mr. Desilets, "Let's see how fast his neighborhood can tar and feather him." This hateful attempt to incite violence against a SMOC leader was a direct attempt to use threats, intimidation and coercion to stop SMOC and its employees from proceeding with plans to site a residential family treatment facility on Winter Street and from helping legally protected, disabled individuals and their families in need. Wolfe has since changed the text following Mr. Desilets' address to, "How fast would his neighborhood run him out of town? Only the shadow knows!"

These postings are only one example of Wolfe's contribution to the ongoing unlawful conspiracy and his coordination with and support of members of STEPPS and with Orr and the other Defendants, all aimed at defaming SMOC and violating the federal and state secured rights of SMOC and its disabled clients. A true and correct copy of the one page "description" is attached at Exhibit 9.

68. SMOC issued an open and measured response to all of these public and defamatory attacks in a "letter to residents" from Messrs. Cuddy and Desilets in June 2005, in which they addressed the fallacious "rumors and fears" regarding SMOC's purchase of the property and offered to answer questions and meet with neighbors in a respectful manner. A true and correct copy of the letter to residents is attached at Exhibit 10.

69. SMOC's gesture of goodwill and its offer to answer any questions about its purchase of the Winter Street property was ignored. Adams and others working in coordination with STEPPS instead took the position that they would only meet with SMOC at a formal meeting of the Board of Selectmen and continued to insist, falsely, that SMOC was acting covertly. As Orr made clear, the Defendants' true goal was not to seek answers to questions about the project, in any event, but rather simply to "Stop SMOC from going forward with 517 Winter St." A true and correct copy of Orr's May 30, 2005 post on Frambors web listing is attached at Exhibit 11.

70. On June 2, 2005, the Board of Selectmen held a "conference" with STEPPS members during its regular meeting, as reflected in the formal minutes of the meeting. A true and correct copy of the minutes is attached at Exhibit 12. Among those in attendance and participating in the "conference" on behalf of and in support of STEPPS were: Adams, Laurora and Orr. During the meeting, STEPPS members informed the Board of Selectmen that SMOC was close to completing its purchase of the Winter Street property and that Mr. Desilets had openly confirmed that 517 Winter Street would serve as the new location for the Sage House Program. Despite that the Sage House Program had operated as a Dover Amendment exempted program at 61 Clinton Street for years, during the "conference," at least one member of the

Board of Selectmen indicated that the project proposed for 517 Winter Street did not fall under the provisions of the Dover Amendment. In response to STEPPS' members requests to force SMOC to attend a Board of Selectmen meeting to talk to STEPPS, Chairman Giombetti suggested that the Board could "put a strong burden on them to be here" and further, that the Board should be "more rebellious" with social service agencies. Ultimately, and as a direct result of the STEPPS Memo, the June 2, 2005 "conference" and the ongoing defamatory and vitriolic campaign against SMOC and its disabled clientele, Giombetti ordered an unprecedented investigation into the purchase of 517 Winter Street, thereby inappropriately attempting to insert the Board of Selectmen into and to interfere with the purchase of private property by a nonprofit social services agency and effectively delaying its efforts to provide housing and education to protected disabled people. A true and correct copy of an article dated June 3, 2005, which appeared in the Metrowest News describing the meeting is attached at Exhibit 13.

71. As part of the Board of Selectmen's extraordinary "investigation," the Board of Selectmen asked then Town Manager, George P. King, Jr., and Town Counsel, Christopher J. Petrini, to investigate and answer STEPPS' eighteen (18) questions. This part of the "investigation" included submitting questions to the Police Chief, the Planning Board Administrator, and the Building Commissioner, and resulted in a memorandum from Town Counsel to the Board of Selectmen dated July 8, 2005. A true and correct copy of the memorandum is attached at Exhibit 14.

72. At one point during the "investigation," the Town Manager and Town Counsel asked for a private meeting with SMOC in an obvious effort to discourage its purchase of the property. The meeting was cancelled when SMOC advised the Town Manager that it had already executed a purchase contract for the property and that it intended to complete the transaction.

73. On June 20, 2005, Town Manager King wrote to SMOC inviting SMOC to participate in a "conference" to be sponsored by the Board of Selectmen, with STEPPS to

discuss purported concerns about SMOC's acquisition of the Winter Street property, namely those spelled out in the STEPPS Memo.

74. Also on June 20, 2005, Giombetti, through the Town Manager, instructed the Building Commissioner to provide the Board of Selectmen with a list of permits that SMOC would need before establishing the Sage House Program at 517 Winter Street as well as any ideas for any regulatory control the Town might have over the facility. He also asked the Building Commissioner Joseph Mikielian to advise the Board of Selectmen when and if SMOC applied for a Dover Amendment exempted building permit. A true and correct copy of the email from Town administrative assistant Matthew A. Romero to Building Commissioner Mikielian is attached at Exhibit 15. Chairman Giombetti's requests were unprecedented and discriminatory, particularly the blatant attempt to monitor and regulate when and if SMOC applied for a Dover Amendment exempted building permit. On information and belief, there has been no other occasion on which the Board of Selectmen has asked the Building Commissioner to advise it of the filing of a building permit application by any individual or entity.

75. Building Commissioner Mikielian responded to the Town Manager the next day, promising that if SMOC sought a Dover Amendment exempted permit, he would require complete documentation that SMOC is a nonprofit corporation and that it is exempt under the Dover Amendment and then would "submit their documentation to Town Counsel for his review and advisory opinion regarding the proposed activity and the right of the Town to impose any reasonable regulations on this facility." He promised further, "[t]hrough your office I will also let the Board of Selectmen know when SMOC applies for a Dover Amendment exempted building permit." A true and correct copy of the memo from Building Commissioner Mikielian to the Town Manager dated June 21, 2005 is attached at Exhibit 16. These promises, too, were unprecedented and, if carried out, discriminatory, as they had, on information and belief, never before been applied to other requests for building permits or even to other requests for building permits for Dover Amendment exempted uses.

76. Giombetti's unprecedented and discriminatory "investigation" proved to be only the beginning of the highly coordinated effort to obstruct SMOC's plans to relocate the Sage House Program to 517 Winter Street and thereby to prevent disabled individuals eligible to participate in the Sage House Program and their families from obtaining housing. Indeed, in the two years that followed, Giombetti and other elected and appointed Town officials, in coordination with Adams and other members of STEPPS and those acting in concert with them, repeatedly took Giombetti's suggestion that they be "more rebellious" with social services to an unlawful extreme.

*Amendment of the Zoning By-Law to Attempt to Subject the Sage House Program
to Burdensome Site Plan Review*

77. The Framingham Zoning By-Law has extensive provisions for Site Plan Review before the Planning Board. The process typically takes three (3) to nine (9) months, depending upon the complexity of the project. When SMOC purchased 517 Winter Street and until August 2005, the Site Plan Review provisions of the By-Law specifically exempted projects subject to the protection of the Dover Amendment from Site Plan Review.

78. In direct response to rumors that SMOC had executed a contract to purchase the Winter Street property and knowing that SMOC planned to relocate the Sage House Program to that property, as one part of their scheme to interfere with SMOC's ability to relocate the Sage House Program and, therefore, its ability to provide residential treatment to disabled adults and their families, members of STEPPS, including elected Town Meeting Members, immediately began discussions with the Board of Selectmen and the Planning Board, seeking to amend the Framingham Zoning By-Law to subject Dover Amendment projects to full Site Plan Review before the Planning Board. The clear intent was to amend the Zoning By-Law quickly enough to apply the amendments to SMOC's efforts to site the Sage House Program and then to subject the project to a lengthy and burdensome Site Plan Review process.

79. The Board of Selectmen discussed the proposed amendment at several meetings and ultimately voted to support it.

80. On July 12, 2005, SMOC filed a Building Permit Change of Use Application with the Building Department, seeking approval to operate the Sage House Program as an R-2 use under 780 CMR 310.5. Within the Residential Use Group governed by 780 CMR 310.0, use group R-2 includes “. . . all *multiple dwellings* have 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.” SMOC accompanied its application with a letter explaining its intended use and a description of the program and specifically claimed Dover Amendment exempted status for the program. The Application indicated a change of use with no additional construction. A true and correct copy of the July 12, 2005 letter is attached at Exhibit 17.

81. During a telephone conversation with SMOC’s counsel that same day, the Building Commissioner requested that SMOC supplement its Application by providing copies of its Articles of Organization and By-Laws, which SMOC did the next day. A true and correct copy of the July 13, 2005 letter is attached at Exhibit 18.

82. Also on July 12, 2005, Mr. Cuddy wrote to the Town Manager to decline his invitation to participate in a Board of Selectmen’s “conference” with STEPPS. Mr. Cuddy advised the Town Manager 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.” Mr. Cuddy also expressly warned the Town Manager that “[a]ny 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 [sic] Act.” Finally, Mr. Cuddy offered to meet with interested parties and neighbors and informed the Town Manager that SMOC intended to hold an open house. A true and correct copy of Mr. Cuddy’s letter is attached at Exhibit 19.

83. After SMOC refused to attend the ambush “conference” set up by certain members of the Board of Selectmen and STEPPS, SMOC’s Change of Use Application languished in the Building Department office while Defendants further organized their efforts to effect the Zoning By-Law amendment.

84. In furtherance of those efforts, on July 20, 2005, the Town posted and published a Warrant for a Special Town Meeting to take place on August 3, 2005. On information and belief, by this time Adams and others affiliated with STEPPS had engaged an attorney to assist them in their efforts to block the Sage House Program and that attorney, on behalf of Adams and others at STEPPS, conferred with Town Counsel and helped to design the By-Law amendments. The practical impact of the proposed amendment was that the Sage House Program (and other Dover Amendment exempt projects) would have to undergo Site Plan Review, where such review would not otherwise have been required.

85. That the Zoning By-Law amendments were aimed directly at SMOC and its disabled clientele and stalling, or altogether preventing, the planned relocation of the Sage House Program is confirmed by Town Counsel’s July 22, 2005 Memorandum to the Board of Selectmen. The Memorandum responded to questions raised by local residents and members of the Board of Selectmen relating to SMOC’s purchase of the Winter Street property and, in particular, whether the By-Law amendments, if adopted, could be applied to the Sage House Program even though SMOC had filed its Change of Use Application before the Town adopted the amendments. Town Counsel advised that the amendments, if adopted, would permissibly apply to 517 Winter Street because SMOC had not yet received a building permit as of the first publication of notice of the proposed changes. A true and correct copy of Town Counsel’s Memorandum is attached at Exhibit 20. By enacting the amendment to the Zoning By-Law, Town officials, prompted by the Individual Defendants, sought to develop a mechanism by which to delay development of 517 Winter Street and, inevitably, to deny its prospective disabled residents access to mainstream, residential housing.

86. Improperly influenced by pressure from the community, including direct pressure from Adams and other STEPPS members and those acting in concert with them, and, on information and belief, from Giombetti and other members of the Board of Selectmen, the Planning Board voted unanimously at its July 28, 2005 Board meeting to support the amendment of the Zoning By-Law that would strike the language exempting Dover Amendment properties from Site Plan Review. A true and correct copy of the minutes of the July 28, 2005 meeting is attached at Exhibit 21. The stated purpose of the proposed amendment was to change the By-Law so as “not to preclude exempt uses from site plan review.” A true and correct copy of the Proposed Zoning Amendments is attached at Exhibit 22.

87. On August 3, 2005, the Town held a Special Town Meeting to vote on the proposed Zoning By-Law amendments “sponsored” by the Planning Board. At the Special Town Meeting, substantial additions were made to proposed amendments, including, among other things: (i) adding language to allow the Town to impose frontage restrictions on Dover Amendment exempted uses; and (ii) drastically reducing the square footage and number of parking spaces necessary to trigger Site Plan Review. In effect, and as intended, the amendments were proposed and adopted to ensure that all Dover Amendment uses would be required to undergo extensive Site Plan Review in violation of G.L. c. 40A, §3.

88. Under Massachusetts law, a By-Law amendment must be approved by the Attorney General for the Commonwealth. The Town accordingly submitted the By-Law amendment adopted on August 3, 2005 for approval by the Attorney General.

89. Months before the Attorney General issued its opinion on the By-Law amendments, on August 11, 2005, Building Commissioner Mikielian denied SMOC’s Change of Use Application based upon the vote at the Town Meeting. His letter was a classic “I gotcha” to SMOC:

Your permit application states that you are requesting a change of use from I-2 to R-2. After a careful review, it is determined that the subsequent zoning amendment made by the Town Meeting on August 3, 2005 applies to your request. G.L. c. 40A, §6, ¶1, requires that you obtain a building permit prior to

the first public notice date for amendments to the By-Law, which appeared in the Metrowest Daily News on July 14, 2005. As you had not met this requirement, I must now under the Massachusetts State Building Code 780 CMR 111.1 deny your application for this “change of use” . . .

A true and correct copy of the Building Commissioner’s letter denying the Application is attached at Exhibit 23. One of the four stated reasons for denial was that “[t]he voted Town of Framingham Zoning By-Law amendment now requires Site Plan Review from the Town of Framingham Planning Board for your proposed use.”

90. Despite the fact that SMOC had already submitted to the Building Commissioner a detailed explanation of the nonprofit educational Sage House Program (on July 12, 2005) and copies of its Articles of Organization and By-Laws demonstrating its educational mission (on July 13, 2005), the Building Commissioner listed as a second reason for denying SMOC’s Application that “[a] copy of the complete proposed educational program with detailed specific information and documentation, including Articles of Organization, a description of faculty or instructor positions likely to be working on site, and a description of the program and its educational objectives, is required in order to confirm [SMOC’s] contention that the proposed use meets all the standards and requirements for an exemption under MGL 40A, Section 3 (Dover Amendment) for educational purposes on land owned by a nonprofit educational corporation.” The Building Commissioner also indicated that SMOC needed to submit a stamped floor plan and an off-street parking plan and lot to demonstrate compliance with the Zoning By-Law.

91. So continued the Town’s efforts, motivated by the discriminatory intent and/or animus of the Individual Defendants, including elected and appointed Town officials, wrongfully to delay and impede the relocation of the Sage House Program to 517 Winter Street. As discussed below, the Town, acting through the Building Commissioner and/or the Planning Board, would, again and again, require SMOC to submit the same information it had already provided and/or revisit settled issues in an effort to prevent the relocation of the program and, consequently, to violate SMOC’s rights and the rights of the disabled population it serves. Not

only did these efforts have no reasonable basis in local or state law, they evidence Defendants' determination to further the discriminatory motives of certain of its citizens who vocalized their loathing of the disabled individuals the Sage House Program would serve via publicly accessible Internet forums, memoranda submitted to Town officials and at public hearings and meetings.

92. Bewildered by the Building Commissioner's denial and the stated reasons for it, SMOC's counsel wrote to the Building Commissioner in a letter dated August 19, 2005. SMOC's counsel noted that it had already provided significant information, including its Articles of Organization and By-Laws, the only additional information that had ever before been requested by the Building Commissioner after SMOC submitted its Change of Use Application on July 12 and 13, 2005. Counsel nevertheless also included in the letter an expanded description of the Sage House Program, the expected staff and their qualifications, the educational components of the program and the basis for Dover Amendment protection. A true and correct copy of the letter from SMOC's counsel is attached at Exhibit 24.

93. In his letter, SMOC's counsel also: (i) requested that the Building Commissioner clarify the project elements which he believed triggered Site Plan Review and the sections of the Site Plan Review By-Law applicable to the proposed use; (ii) explicitly noted in its letter that in addition to the Dover Amendment, the Federal and Massachusetts Fair Housing Acts specifically protect SMOC and the persons that would be served by the Sage House Program from discrimination and discriminatory exclusion from housing opportunities; and (iii) stated that the Building Commissioner's agreement to apply measures specific to 517 Winter Street by agreeing to refer the application documentation to Town Counsel for review and to advise the Board of Selectmen if SMOC applied for Dover Amendment exemption likely violated the Federal and State Fair Housing Acts because it subjected programs that serve disabled persons to different siting requirements than non-disabled persons.

94. SMOC also wrote to the Attorney General to challenge the validity of the By-Law amendment and pointed out, among other things, that it would violate the Dover Amendment to

apply the amended By-Law to require Dover Amendment exempted programs to undergo full Site Plan Review before they could be sited.

95. With the By-Law amendments pending before the Attorney General and SMOC's fears realized in the coordinated effort among Town officials and private citizens to block its intended use of 517 Winter Street, on September 9, 2005, SMOC filed with the Framingham Zoning Board of Appeals ("ZBA") an appeal of the Building Commissioner's August 11, 2005 Decision denying the Change of Use Application.

96. On October 24, 2005, Town Counsel wrote to the Attorney General urging approval of the By-Law amendments. On the same date, Town Counsel issued an opinion letter to the Building Commissioner with copies to the Board of Selectmen, the Planning Board, the Town Manager and the ZBA, in the form of a Memorandum addressing issues raised by SMOC's August 19, 2005 letter. In his Memorandum, Town Counsel specifically acknowledged that SMOC had met the first of the two criteria to qualify for protection under the Dover Amendment, namely to show that it qualifies as a nonprofit educational corporation. With respect to the second criteria, that it show that its proposed use of the property is for educational purposes as defined by law, Town Counsel concluded that it was more likely than not that the courts would find that "a significant component" of SMOC's "proposed use is educational" and thus an educational use within the meaning of the Dover Amendment. A true and correct copy of Town Counsel's Memorandum is attached at Exhibit 25.

97. On October 25, 2005, Senior Planner for the Town, Gene Kennedy, submitted comments to the ZBA in support of the Building Commissioner's decision denying the Change of Use Application. While essentially parroting the Building Commissioner's reasons for denial, Kennedy's comments to the ZBA included something new that the Building Commissioner had not thought to mention. Kennedy complained that SMOC had not provided information "regarding the future plans for the property" and that because the two-acre parcel is within the Residential District, "it could be subdivided into 3-5 single family house lots while retaining the existing building on a separate parcel." This comment from the Senior Planner forecasted what

would happen later, namely that Town officials, at the urging of STEPPS members and others working with them, would improperly and unlawfully attempt to condition approval of the project on SMOC's agreement not to subdivide the property in the future. A true and correct copy of the Senior Planner's letter is attached at Exhibit 26.

98. Although it had already appealed the Building Commissioner's denial of the Change of Use Application, in an effort to avoid further unwarranted delay of the Sage House Program, on October 26, 2005, SMOC sent stamped floor plans for 517 Winter Street to the Building Commissioner and advised that an off-street parking plan and lot demonstrating compliance with the Framingham Zoning By-Law would be forthcoming.

99. With all of this going on and with the Zoning By-Law amendments pending, the Individual Defendants continued to issue a stream of malicious and defamatory statements about SMOC and the disabled population it serves. For his part, Adams, using his UMass-Boston email, posted numerous false and defamatory messages of and concerning SMOC on Orr's Frambors web listing between September and November 2005, knowing they were false or with reckless disregard as to their truth or falsity. Without limitation and by way of example only, Adams, using his UMass-Boston email, posted the following false and defamatory statement or innuendo of and concerning SMOC on Frambors on September 19, 2005: "We are concerned that this lovely building [referring to 517 Winter Street] is in danger, as SMOC is not known for keeping their properties in good condition. If their plans go ahead, there will be 24-45 children of unknown age housed there, **supervised by single parents who are addicts or recovering addicts.**" A true and correct copy of the posting is attached at Exhibit 27 (emphasis added). This statement was defamatory in that it conveyed, falsely, that some of the individuals housed at the Sage House Program would be active drug users.

100. Siciliano posted on Frambors on November 14, 2005, in response to a post about a sex offender recently released from prison: "These dregs are all clients of SMOC . . . **The property at 517 Winter Street will also be populated with criminals.**" A true and correct copy of the post is attached at Exhibit 28 (emphasis added). This statement, too, was false and

defamatory. I had been public knowledge for months that 517 Winter Street would be used to relocate the Sage House Program and to house disabled individuals in recovery from substance abuse problems and their families.

101. As further evidence of the coordination between members of STEPPS and elected and appointed Town officials, on November 16, 2005, Adams posted the following message on Frambors: “All we can do is put enough pressure on them to get them to reform or move. After a little pressure from the town, SMOC agreed to a few small reforms . . . The pressure we bring on them can have results.” A true and correct copy of Adams’ post is attached at Exhibit 29.

102. On November 16, 2005, the Attorney General issued its ruling on the By-Law amendment, disapproving certain provisions of the amendment, but approving the provisions which would subject a Dover Amendment protected project like the Sage House Program to limited Site Plan Review. A true and correct copy of the Attorney General’s ruling is attached at Exhibit 30. In its ruling, the Attorney General explicitly cautioned the Town as follows:

While Section IV.I.2 no longer expressly exempts uses protected under G.L. c. 40A, §3, any application of the site plan review process to such uses may only be applied to the extent allowed under G.L. c. 40A, §3, that is, to check for compliance with reasonable regulations pertaining to bulk and height of structures, yard size, lot area, setbacks, open space, parking, and building coverage requirements. **It is only in those instances in which site plan review may be utilized.** It is our view that site plan review is not facially inconsistent with state law to ascertain whether a protected use complies with those reasonable regulations. However, **we caution the town that it may need to modify its site plan requirements and process in order to avoid a challenge that the town is applying unreasonable regulations to a protected use. For example, requiring the submittal of a lengthy, detailed site plan application or requiring an application to wait nine to twelve months for site plan review may be found to be an unreasonable regulation of a protected use, and thus, inconsistent with G.L. c. 40A, §3 (emphasis added).**

103. Further emphasizing the limited permissible scope of site plan review for Dover Amendment exempted uses, the Attorney General added, “[b]ecause we see a lawful application of the proposed by-law, we approve the amendments adopted under Article 1. We, however, strongly suggest that the town discuss the application of the

proposed by-law amendments to use protected under G.L. c. 40A, §3, with town counsel.”

104. Based upon the Attorney General’s opinion and comforted by the explicit caution to the Town about its obligations to comply with the Dover Amendment and the suggestion that any Site Plan Review relative to the Sage House Program would be limited in both scope and duration, SMOC withdrew its ZBA appeal the next day. Defendants, however, went on to spend nearly two years attempting to revisit the issue of whether the Sage House Program qualified as a Dover Amendment exempted use at all (which Town Counsel had already opined that it did) and to circumvent the protections of the Dover Amendment and the Attorney General’s express caution.

Continued Efforts to Obstruct the Sage House Program

105. On November 17, 2005, in further response to the Building Commissioner’s August 11, 2005 letter, SMOC submitted to Building Commissioner Mikielian a proposed parking plan for 517 Winter Street. The parking plan showed 24 parking spaces, two of which were handicap accessible (including one van accessible space). Given that the Sage House Program was intended to house a maximum of 40 occupants and 14 employees, the plan complied fully with the Framingham Zoning By-Laws § IV.B.1 which required a minimum of 17 spaces – one space for every four (4) occupants plus one space for every two (2) employees; the Sage House Program.

106. On November 22, 2005, Town Counsel submitted an opinion letter to the Building Commissioner, with copies to the Board of Selectmen, the Planning Board and others in response to SMOC’s August 19, 2005 letter. Town Counsel confirmed his opinion that “it is more likely than not that a reviewing court would find that the proposed use of the [Winter Street property] . . . would constitute an educational use” within the meaning of the Dover Amendment. A true and correct copy of Town Counsel’s Memorandum is attached at Exhibit 31. Town Counsel also confirmed that individuals recovering from drug or alcohol dependency are recognized as handicapped under federal law.

107. Town Counsel went on to state that Site Plan Review for the Sage House Project should properly be limited to parking concerns:

Assuming that the proposed use for the property is found to be an educational use protected by the Dover Amendment, either at the local level or by the courts, the use of the Property is still subject to “reasonable regulations” concerning bulk, dimensions, open space and parking, as expressly permitted by the Dover Amendment. . . **In this instance, any application of site plan review would appear to be primarily limited to parking concerns . . .** If the existing plan submitted by [SMOC] does not comply with reasonable local zoning requirements with respect to parking, a reasonable agreement needs to be reached to provide for acceptable parking at the facility. **However, the lack of a parking plan that fully complies with Framingham’s zoning requirements in all respects cannot be used to prohibit the use altogether.** (emphasis added).

108. On December 2, 2005, Building Commissioner Mikielian issued a belated response to the August 19, 2005 letter from SMOC’s counsel. In his response, the Building Commissioner indicated only that SMOC had failed to submit a floor plan and certification of an existing fire suppression system and noted that the Planning Board still needed to review the proposed parking layout that SMOC had submitted on November 17, 2005. A true and correct copy of the Building Commissioner’s letter is attached at Exhibit 32.

109. On December 31, 2005, the Metrowest Daily News ran an article about SMOC’s Re-Entry Housing program (“RHP”) which provides, under contract with the Department of Corrections (“DOC”), housing for individuals leaving the correctional system who are otherwise at risk for homeless. In the article, Esty was quoted as saying, “I think this exposes the fact that there is an underlying plan, a document... for designating Framingham as a place that would be suitable for centering a large population of arsonists, sex offenders and criminals.” A true and correct copy of the article from www.smocingham.org is attached at Exhibit 33. This statement was false and defamatory. There was no such plan and there had been no influx of criminals as a result of the RHP. Nevertheless, this launched a new round of false and defamatory statement which continue to this day. Without limitation, these have included:

- “We [STEPPS] have . . . helped expose **SMOC’s secret contract with the Department of Corrections to house sex offenders and arsonists.** . . .” A true

and correct copy of the STEPPS website printout is attached at Exhibit 34 (emphasis added).

- “Now we have **evidence of SMOC actively pursuing criminals as clients.**” (Adams on Frambors on January 2, 2006). A true and correct copy of Adams’ post is attached at Exhibit 35 (emphasis added).
- “The Dept of Corrections is the maker of the contract to SMOC to **troll the prison system to look for arsonists and sex criminals to bring to Framingham and Worcester.**” (Orr on Frambors on May 15, 2006). A true and correct copy of the post is attached at Exhibit 36 (emphasis added).

110. In a particularly disturbing post on January 1, 2006 on Frambors, Siciliano explicitly threatened to resort to violence when he stated, “If I read where Jim Cuddy refers to ‘our clients’ one more time, **I’m going to throw a brick into his wet shelter.**” This outright threat posted on a widely read forum was, on information and belief, intended to threaten, intimidate and/or coerce SMOC and its employees and its disabled clients to forego their legal rights and an indirect attempt to incite violence. Siciliano went on in his post to refer to the disabled individuals served by SMOC as “**trash**” and “**society’s losers and dregs**” and to make the following false and defamatory statement of and concerning SMOC: “Many of the clients have, as stated in the [news] story, “extensive criminal records”. I doubt that any of us are stupid enough to think that their criminal record will come to a screeching halt once they enter SMOC’s domain. **SMOC, of course, does not care about that, as further criminal acts by their present day clients will insure SMOC of a future client base.**” A true and correct copy of Siciliano’s post is attached at Exhibit 37 (emphasis added). The statement was defamatory in that it falsely implied that SMOC intentionally proliferates criminal behavior for profit.

111. Following discussions with Town Counsel and Building Commissioner Mikielian on the appropriate scope of an Application for Site Plan Review for a Dover Amendment protected project, on January 11, 2006, SMOC filed a draft Application for Site Plan Approval with the Building Commissioner as required by the Zoning By-Law. In its application, SMOC requested waivers for all aspects of Site Plan Review other than with respect to the parking plan. Since Site Plan Review was limited to eight (8) relevant dimensional regulations and the proposed use complied with those eight (8) regulations, SMOC sought guidance from the

Building Commissioner on which of the By-Law provisions would apply to the Sage House Program project.

112. Rather than offering clarification, by letter dated February 7, 2006, the Building Commissioner, simply referred the matter to the Planning Board for further review. In his letter to SMOC, despite (i) the Attorney General's express caution which acknowledged that Dover Amendment exempted uses are entitled to different treatment than non-exempt uses; and (ii) Town Counsel's opinion letter confirming that Site Plan Review for the Sage House Program should be limited to parking concerns, Building Commissioner Mikielian wrote:

Regarding your request that I make a formal determination that the proposed use is a non-profit educational use before it can be referred to the Planning Board. I believe this request is no longer relevant since **the amended by-law does not refer to any such type facility or imply that such a facility is to be treated in any unique or special manner.** As you know, any language that previously gave special status to a non-profit educational use (G.L. c. 40A, Section 3) use [sic] was deleted from the Town of Framingham Zoning By-Law.

A true and correct copy of the Building Commissioner's letter is attached at Exhibit 38 (emphasis added). This is precisely the interpretation of the By-Law amendment that the Attorney General had cautioned would be improper.

113. In hopes of advancing the long delayed approval process, and consistent with Town Counsel's assessment that Site Plan Review for the Sage House Program should properly be limited to parking concerns, SMOC subsequently filed an Application for Site Plan Review directly with the Planning Board on February 17, 2006, seeking waivers of all requirements other than the parking plan.

114. The Planning Board, however, in spite of clear guidance from both the Attorney General and Town Counsel, took the position that it did not know how to proceed. Indeed, although the Planning Board already had Town Counsel's November 22, 2005 Memorandum, on February 23, 2006, Planning Board Administrator, John W. Grande, wrote to Town Counsel purportedly to seek guidance as to how the Planning Board should proceed with SMOC's Application. In his letter, Mr. Grande stated that SMOC's Application triggered "Major Site

Plan Review” and asked whether the language in the Attorney General’s letter should “be interpreted to mean that the provisions normally required under Major Site Plan Review are not applicable in these cases?” A true and correct copy of Mr. Grande’s letter is attached at Exhibit 39. This issue had been settled months before and the Planning Board well knew it. The Attorney General’s express caution by itself unambiguously informed the Planning Board that Major Site Plan Review was not proper and that Site Plan Review for Dover Amendment exempted uses was instead limited to the eight (8) specified dimensional requirements. Town Counsel’s November 22, 2005 Memorandum confirmed this and specifically clarified further with respect to the Sage House Program that Site Plan Review should properly be limited to parking concerns. The Planning Board’s attempt to ask the question again in hopes of getting a different answer was nothing more than an unlawful effort to further delay SMOC’s ability to proceed with the Sage House Program.

115. Mr. Grande, incredibly, also asked Town Counsel to revisit for a third time the issue of whether the Sage House Program qualified for Dover Amendment protection. In his letter to Town Counsel, the Planning Board Administrator stated that SMOC had claimed Dover Amendment protection and that “[m]aterials submitted in the application support this claim.” He asked, however, whether the materials SMOC had submitted were sufficient proof of exempt use. By this time, the Sage House Program had operated as a Dover Amendment exempt use at 61 Clinton Street for nearly 15 years and Town Counsel had already issued two separate opinions (on October 24, 2005 and November 22, 2005) in which he stated that a court would most likely find the Sage House Program anticipated for 517 Winter Street to be an educational use under the Dover Amendment.

116. On March 9, 2006, nearly two (2) months after SMOC’s submission to the Building Department (and nine (9) months after it initially filed its Change of Use Application), the Planning Board advised SMOC that its Application was considered incomplete and that the matter had been referred to Town Counsel for review.

117. Although he had already answered in earlier Memoranda the bulk of the questions raised by the Planning Board in Mr. Grande's February 23, 2006 letter, Town Counsel did not respond until April 6, 2006. At that time, in a Memorandum to the Planning Board, Town Counsel advised, in relevant part, as follows:

As a building already exists on 517 Winter Street, which was constructed on the site before the adoption of zoning by the Town, almost all of the above mentioned areas that may be "reasonably regulated" pursuant to Section 3 would no longer be within the scope of regulation by the Town. Even if dimensional deficiencies existed, the property and the associated structure are within the protections afforded by G.L. c. 40A, § 6, where no modification to the structure is proposed.

Because this is a pre-existing structure, this limits the application of site plan review to parking concerns.

A true and correct copy of Town Counsel's Memorandum is attached at Exhibit 40 (emphasis added). He thus confirmed again that other than parking concerns, the elements of Site Plan Review could not be applied to SMOC's intended use of 517 Winter Street.

118. Town Counsel acknowledged also that SMOC had already provided a good deal of information to establish its educational use and confirmed, now for the third time, that "it is more likely than not that a reviewing court would find that the proposed use of [the Winter Street property] as described by [SMOC] **would constitute an educational use** within the meaning of [the Dover Amendment]." He also again confirmed that, "**because this is a pre-existing structure, this limits the application of site plan review to parking concerns.**" (Town Counsel repeated this at least two more times in his Memorandum) (emphasis added).

119. Town Counsel nevertheless indicated that an applicant like SMOC should still be required to seek "waivers from those provisions [aside from Fiscal Impact and Community Impact Statements, which he stated had already been precluded by the courts] of site plan review that do not appropriately apply because of its protected status." This requirement, in and of itself, inappropriately burdens an applicant with an exempted use to obtain waivers of aspects of Site Plan Review that are automatically inapplicable once exempt status is established.

120. The next day, on April 7, 2006, Jessica Levensgood, Senior Planner for the Planning Board, advised SMOC that “the Planning Board will require Dover Amendment-protected uses to submit waivers from the customary requirements of Site Plan Review, with the exception of the Fiscal Impact and Community Impact Statements. . .” Ms. Levensgood explained:

Because proposed work activities relate only to the parking concerns and there are no modifications proposed to the existing structure, only the submission of a parking plan and a Parking Impact Assessment is required at this point. However, it is essential to note that there remains a burden on the applicant to clearly demonstrate that the submission of other requirements is unnecessary, such as the general site plan review requirements and Environment and Traffic Impact Assessments.

A list of waivers with accompanying justification for each item requested should be submitted.

A true and correct copy of Ms. Levensgood’s letter is attached at Exhibit 41. SMOC, of course, had already requested waivers based upon the fact that the Sage House Program is an exempt use in its submission three (3) months before on January 11, 2006 and had submitted a parking plan five (5) months before on November 17, 2005. Nevertheless, in a further effort to keep the already long delayed process moving, SMOC submitted supplemental material on May 8, 2006.

121. Although Town Counsel had by now confirmed in three separate Memoranda that a court more likely than not would find that the Sage House Program is an educational use within the meaning of the Dover Amendment, the Planning Board waited yet another month and then, on June 9, 2006, purported to “request further input” from Building Commissioner Mikielien on “the applicability of the Dover Amendment” to SMOC’s intended use of 517 Winter Street for the Sage House Program. A true and correct copy of the Inter Office Memorandum from the Planning Board Director to Building Commissioner Mikielien is attached at Exhibit 42. The Planning Board’s approach here again seemed to be: ask the question enough times and hopefully you will eventually get the answer you want.

122. At the same time, Adams and other members of STEPPS attempted to get the answer they wanted by putting pressure on the Building Commissioner to find that the Sage House Program is not an educational use exempted by the Dover Amendment. On June 12, 2006, apparently knowing that the issue had been put to the Building Commissioner by the Planning Board and having learned that the Planning Board had noticed a public hearing on Site Plan Review for 517 Winter Street for June 22, 2006, Adams wrote to the Framingham Building Department under STEPPS letterhead, indicating that he (and others connected to STEPPS), felt that Town Counsel's opinion that the Sage House Program is an educational use "was a hasty and overly cautious opinion and not in the best interests of the Town." Adams stated, "[w]e also strongly urge you, for the good of Framingham's long term interest, to encourage Town Counsel to reconsider his opinion that the proposed use is an educational use" and requested that the June 22, 2006 public hearing be postponed, "[u]ntil this situation has been clarified." A true and correct copy of Adams' letter is attached at Exhibit 43.

123. Despite their best efforts, however, the answer that the Planning Board and STEPPS wanted did not come this time. On June 13, 2006, Building Commissioner Mikielian determined:

After a review of the applicant's submitted documentation with their building permit application concerning the non-profit status and proposed use as submitted by SMOC attorney Jim Hanrahan, **it is my opinion the proposed use of the existing facility at 517 Winter Street would meet the legal standards as an exempt use under the Dover amendment.**

A true and correct copy of the Building Commissioner's Memorandum is attached at Exhibit 44 (emphasis added).

The Planning Board Holds Seven Public Hearings Regarding the Sage House Program

124. When Orr heard that the Planning Board had scheduled a public hearing for June 22, 2006 (to begin what would prove to be a protracted and unlawful Site Plan Review process), it prompted him to post the following threatening message on Frambors:

The Planning Board has scheduled a Public Hearing for [SMOC] which has applied for site plan review approval for the Sage House Family Treatment program in the former nursing home at 517 Winter St. **Lock'n'load**

A true and correct copy of Orr's June 6, 2006 post is attached at Exhibit 45 (emphasis added). The clear intent of the message was to threaten and intimidate SMOC and anyone who would support it at the upcoming public hearing. At least one third party unrelated to SMOC complained to Orr that the post was "intimidating and uncivil." A true and correct copy of the post is attached at Exhibit 46.

125. Going into the public hearing scheduled for June 22, 2006, the only issue properly before the Planning Board was the exact configuration of the parking lot for 517 Winter Street. The existing building located at 517 Winter Street complies with all eight (8) dimensional requirements that may be considered as part of Site Plan Review for a Dover Amendment protected use. The then existing parking facility which served the nursing home since approximately 1960 accommodated between fifteen (15) and twenty (20) automobiles.

126. On the day of the Planning Board's scheduled public hearing, the Planning Board Administrator wrote to the Planning Board about the Site Plan Review for 517 Winter Street. With respect to parking, the Planning Board Administrator wrote that he had received correspondence from the Chief of Police on May 24, 2006 stating that the "project still falls within the minimum number of parking spaces required for the Zoning By-Laws" and noted that with respect to the Parking Impact Assessment, SMOC's parking plan was compliant. Nevertheless, as part of the coordinated scheme to obstruct SMOC's plans to relocate the Sage House Program to 517 Winter Street, the Planning Board managed to hold seven separate public hearings to "review" SMOC's application by addressing issues well beyond parking and, therefore, outside the scope of permissible review, including repeatedly returning, unlawfully, to the issue of whether the Sage House Program qualified as a Dover Amendment exempted use.

127. On June 22, 2006, the Planning Board held its first public hearing on SMOC's Application for Site Plan Review. Although the configuration of a parking lot was the only issue properly before it, the Planning Board members spent significant time taking comments from the

public on issues ranging from whether the Dover Amendment applied to the proposed use of the property to concerns about future development of the property. During the hearing, in addition to other improper areas of inquiry, the Planning Board also asked for details about the interior layout of the property.

128. Adams also appeared at the hearing to protest the Sage House Program. He repeated again what he had asserted consistently on the STEPPS website, in posts on the Frambors website, in meetings with Town officials and elsewhere: that the proposed use would adversely affect the neighborhood and that, notwithstanding the Building Commissioner's determination and Town Counsel's consistent opinion, the Sage House Program did not qualify for Dover Amendment protection. Adams urged the Planning Board not to grant any waivers for the project.

129. With respect to parking, SMOC advised the Planning Board that the Building Commissioner had determined that for parking calculations, the proposed use should be considered a residential care facility requiring one (1) space per four (4) occupants and one (1) space per two (2) employees, and that the proposed parking plans submitted by SMOC provided for more than the minimum of 17 required. The Planning Board next asked SMOC to submit a seventeen (17) space parking lot with four spaces land banked and suspended the public hearing.

130. The Planning Board scheduled subsequent hearings on September 7, 2006, October 12, 2006, November 9, 2006, December 7, 2006, January 4, 2007 and January 25, 2007. As alleged in more detail below, the public hearings that followed were extraordinary and demonstrated an intent on the part of the Planning Board, together with members of STEPPS and others, including elected Town officials, to obstruct the Sage House Program for as long as possible by repeatedly raising issues that the Planning Board members knew full well were not within their jurisdiction, that had been decided and confirmed multiple times, and that far exceeded the limited scope of permissible Site Plan Review for Dover Amendment protected uses. By way of example only, and as detailed further below, significant portions of several hearings were devoted to debate among Planning Board members, Adams and other members of

STEPPS, including elected and appointed Town officials, about whether the Sage House Program was truly a Dover Amendment protected project – an issue that had been resolved by Town Counsel and the Building Commissioner definitively and that was simply not before the Planning Board. Those issues were raised out of no legitimate or lawful concerns; rather, they were raised to further Defendants’ discriminatory motives and in an effort to block relocation of the Sage House Program.

131. In response to issues raised by the Planning Board and members of the public at the June 22, 2006 public hearing and in preparation for the continued hearing on September 7, 2006, SMOC submitted additional information to the Planning Board on August 31, 2006. SMOC prepared and provided the Planning Board with a revised parking plan, as had been requested, reducing the number of parking spots in its plan from twenty-four (24) to seventeen (17), with four being land-banked. SMOC included landscaping plans, architectural plans, and, as a courtesy, copies of the proposed interior layout for the Sage House Program. SMOC specifically noted, “[r]eview of the interior layout of the building is not within the jurisdiction of the Planning Board. Accordingly, submission of this material is not intended to waive any objections by [SMOC] to a review of the interior layout or programmatic function of the Sage House Program.” SMOC provided the information because several of the Planning Board members had requested information about the interior layout during site visits and SMOC hoped that providing this information, although unnecessary and not a part of any proper review by the Planning Board, might help to prevent further delay.

132. Adams immediately prepared an “analysis” of these materials in a document entitled “SMOC Site Plan Comments & Suggestions – 517 Winter Street.” A true and correct copy of the document is attached at Exhibit 47. Adams presented the document under STEPPS letterhead to the Planning Board at the public hearing on September 7, 2006. In the “analysis,” Adams raised and the Planning Board entertained questions about (i) SMOC’s landscaping plans; (ii) SMOC’s plans to remove an existing fence and to put up a new fence on another part of its property; (iii) the type of refuse that would be placed in SMOC’s dumpster, raising, he said,

“public safety issues” with respect to the “noise and smell” of the dumpster; (iv) the placement and need for a generator; (v) the placement of a bicycle rack; (vi) the location of a proposed children’s playground; (vii) the location of the parking, entrance and exit; (viii) the need for fire escapes on the second story; and (ix) purported “safety issues” due to the size of rescue trucks and delivery trucks needed to service the Winter Street property. Adams also created from thin air a fictional planned “smoking area” on the 517 Winter Street property and then complained about its location and the propriety of allowing smoking by “drug addicts.” There was no such “smoking area” in SMOC’s plans and, in fact, the policy was to discourage the use of tobacco and not to designate a smoking area, although smoking was allowed outside the facility, away from children or children play areas. Even if there had been a designated smoking area, however, other than the configuration of the parking area, not one of the issues raised by Adams was or could properly be before the Planning Board.

133. Furthermore, although he purported to raise “concerns” about the physical layout of the property, even in the midst of reeling off his concocted “concerns,” Adams’ intolerance for the disabled potential residents of the Sage House Program, and even for their innocent children, came through loud and clear. For example, he could not just say that the location of the smoking area would bother the neighbors; he had to add that the smoking area for the “drug addicts” would bother them. He could not just say that the location of the children’s playground would bring too much noise to the neighbors; he had to add that the playground for the children of the “drug addicts” would be too noisy.

134. Adams also insisted that “the Planning Board should request detailed information on hours and programmatic use of the facility in order to determine accurate trip generation statistics, including client visits to the methadone clinic.” This was simply a back-door attempt to revisit yet again the exempt status of the Sage House Program and a misguided effort to have the Planning Board impermissibly monitor the ongoing use of the facility. The Planning Board had no authority to entertain either suggestion, but that did not stop it from attempting to implement both.

135. At the September 7, 2006 public hearing, obviously at the urging of Adams and other STEPPS members, including elected Town officials, and in furtherance of their coordinated scheme to block SMOC's efforts to relocate the Sage House Program to 517 Winter Street, the Planning Board stated that SMOC had to demonstrate at the present time and in the future that it meets the burden of proof to be considered a protected use under the Dover Amendment. SMOC's counsel pointed out that no such issue was within the Planning Board's purview, that the determination was to be made and had already been made by the Building Commissioner, and that SMOC had thus already met its burden.

136. The Planning Board nevertheless went on to request, incredibly, yet another review by the Building Commissioner on the appropriateness of a Dover Amendment exemption for the Sage House Program and "verification" of the information provided by SMOC. As reflected in the meeting minutes, the Planning Board specifically stated that it needed "clarification" from the Building Commissioner "that the use is entitled to be considered an educational use and what basis was used to determined [sic] Dover Amendment status." A true and correct copy of the meeting minutes are attached at Exhibit 48. This supposed request for "clarification" not only exceeded the Planning Board's authority, but it flew in the face of the three opinions from Town Counsel in which he advised the Planning Board and other Town officials that the courts would view the Sage House Program as an exempted use, and the Building Commissioner's own unequivocal finding that the Sage House Program in fact did qualify for Dover Amendment protection.

137. This request was extraordinary, but paled in comparison to what happened next. Obviously in response to the STEPPS "analysis" and in coordination with Adams and other STEPPS members, including elected and appointed Town officials, during the meeting, the Planning Board indicated that it wished to have the Building Commissioner report on how it would monitor the Sage House Program activities in the future. Counsel for SMOC warned the Planning Board in no uncertain terms that any such monitoring would be unlawful and that the issue was not properly before the Board in any event.

138. During the course of the meeting and in response to “comments” from Adams and others, the Planning Board also sought concessions from SMOC (relating to use and location of the dumpster, the fencing on the property, storage of vehicles), and information about other properties owned by SMOC (so that the Board could “take a look” at whether the maintenance of those properties was sufficient) that went well beyond anything relating to parking or anything else properly within the limited Site Plan Review applicable to Dover Amendment protected uses. By the end of the hearing, the Planning Board members still did not agree on the location and configuration of the parking lot (some wanted parking in front of the property, at least one wanted it to the side) and left SMOC with little guidance on the issue. SMOC’s counsel, therefore, told the Planning Board that SMOC would submit two alternative parking plans for the Planning Board’s consideration, and the hearing was continued to a third day, on October 12, 2006.

139. Following the September 7, 2006 public hearing, on September 18, 2006, the Planning Board Director wrote to ask Building Commissioner Mikielian to report on how he had “verified that the use was exempt under MGL c. 40A, §3” and how he would “monitor The Sage House in the future to determine that the use remains exempt or not.” A true and correct copy of the Inter Office Memorandum is attached at Exhibit 49. The request was an unprecedented and unlawful attempt to obstruct the relocation of the Sage House Program and, thereby, wrongfully to deny housing to members of a protected class.

140. Building Commissioner Mikielian acknowledged the “unique nature” of the Planning Board’s request when he forwarded it to Town Counsel, seeking guidance as to how to proceed and expressing “serious concerns about the legality of any monitoring process that could appear to discriminate against social service agencies and any long-term ramifications to the Town of Framingham.” He asked whether “any monitoring review would be allowed that does not also include every facility and use that receives similar protection, e.g. Churches, Schools, etc. under the Dover Amendment.” A true and correct copy of the Building Commissioner’s Memorandum to Town Counsel is attached at Exhibit 50.

141. Town Counsel responded on September 29, 2006 in a Memorandum to Building Commissioner Mikielian with copies to, among others, the Board of Selectmen, the Planning Board, the Town Manager, the Planning Board Director, and the Assistant Building Commissioner. Confirming the Building Commissioner's well-founded "serious concerns," Town Counsel unambiguously explained that the proposed monitoring would violate the law and subject the Town to liability:

[I]t is my opinion that the establishment by you as the Town's zoning enforcement officer of a program for monitoring the Sage House for compliance with the Zoning Act and Zoning By-law, could subject the Town to potential liability for violation of the Federal Fair Housing Act, and potentially other federal and state laws prohibiting discrimination. In my opinion, the procedure for enforcing compliance with zoning should be uniform with respect to all properties in town. Thus, even if you were to establish a program for monitoring all exempt religious and educational uses, but not all other uses in town, the fact that other exempt uses in addition to the Sage House were subject to specialized monitoring would not cure the potential for discrimination claims.

A true and correct copy of Town Counsel's Memorandum is attached at Exhibit 51.

142. Town Counsel also confirmed that it is the Building Commissioner and not the Planning Board that "is charged under Chapter 40A with determining whether a use or proposed use has satisfied the requirements of the Dover Amendment" and emphasized again the Planning Board's limited role in reviewing Dover Amendment protected uses:

Apparently the question of Dover Amendment verification and ongoing monitoring arose during the Planning Board's Site Plan Review for the Sage House under Section IV.I. of the Zoning By-law. **The scope of the Planning Board's review of an exempt educational use under this section is limited.** The Town amended the Site Plan Review By-Law at the August, 2005 Special Town Meeting, deleting language which specifically exempted Dover-protected uses. Although the By-Law amendments were approved by the Office of the Attorney General pursuant to G.L. c. 40, sec. 32 as valid on their face, the Attorney General's November 16, 2005 approval letter specifically cautioned the Town . . . that the Town may not apply the Site Plan requirements in violation of the protections accorded under the Dover Amendment. **If the Planning Board interprets the limited site plan review it is entitled to conduct under Section IV.I. to permit it to conduct an inquiry as to whether the facility is entitled to Dover Amendment protection, such an inquiry would run afoul of the**

Attorney General's caution and could result in the imposition of liability against the Town if challenged in court. (emphasis added).

143. Finally, Town Counsel noted that the Building Commissioner could continue to investigate citizen complaints about claimed zoning violations, but cautioned that such investigations had to be, "conducted in a non-discriminatory fashion regardless of whether or not the complaints pertain to a Dover-protected use or to a use not protected by the Dover Amendment." He added, "[n]eedless to say, the Building Commissioner or the Town cannot use its zoning investigatory function as a proxy or other means to discriminate against Dover-protected uses."

144. Reeling from the September 7, 2006 public hearing and the Planning Board members' open and obvious hostility towards SMOC's plans to provide services to individuals recovering from substance abuse and its efforts to obstruct SMOC's ability to carry out those plans, SMOC determined that it needed to put in writing its objection to the Planning Board's unlawful actions and its stated intentions to continue to act unlawfully.

145. On October 5, 2006, SMOC's counsel submitted a detailed Memorandum to the Planning Board setting out the (by this time) fifteen (15) month history of SMOC's efforts to site the Sage House Program and specifically warning the Planning Board that its actual and proposed actions with respect to those efforts would violate the Federal Fair Housing Act and the Americans with Disabilities Act. A true and correct copy of the Memorandum is attached at Exhibit 52. SMOC's counsel sent a copy of the Memorandum to Town Counsel that same day. A true and correct copy of the letter to Town Counsel is attached at Exhibit 53.

146. The Memorandum responded explicitly to questions raised during the September 7, 2006 public hearing regarding the Planning Board's ability to seek additional information about the status of SMOC's proposed use of 517 Winter Street as an educational use under the Dover Amendment, and the Planning Board's proposal that the Building Commissioner monitor that use:

In summary, the Planning Board is bound by the Building Commissioner's determination that [SMOC's] proposed use is an educational use within the

meaning of the Dover Amendment. . . . **Should the Planning Board choose to ignore its jurisdictional limits and attempt to conduct an independent inquiry on the proposed educational use, such further inquiry would suggest a discriminatory motive on the part of the Planning Board.**

As the Attorney General directed, the Planning Board may only regulate [SMOC's] proposed use by reviewing compliance with reasonable regulations pertaining to bulk and height of structures, yard size, lot area, setbacks, open space, parking and building coverage requirements. Consistent with this directive, Town Counsel advised the Planning Board that its review of [SMOC's] project should be limited to parking concerns. Any review by the Planning Board that exceeds this scope is not permissible for a project which proposes a use which the Building Commissioner has determined to be an educational use under the Dover Amendment. **Should the Planning Board insist on requiring further information with respect to the non-profit educational use, or impose conditions in its Site Plan Review decision which go beyond the reasonable dimensional regulations referenced above, such conditions would exceed the scope of the Planning Board's authority over a Dover Amendment protected project. Such actions would also raise serious questions as to whether the Planning Board was treating the project in a discriminatory manner in violation of state and federal law.**

147. In spite of Town Counsel's numerous opinions about the limited scope of Site Plan Review applicable to the Sage House Program and the multiple submissions and admonitions from SMOC reiterating the limited scope of the Planning Board's review and warning the Planning Board that broadened inquiry would violate state and federal law, the Planning Board held five (5) additional public hearings (on October 12, 2006, November 9, 2006, December 7, 2006, January 4, 2007 and January 25, 2007) dedicated to Site Plan Review approval for the Sage House Program. During those hearings, the Planning Board discussed, received comments from the public, and sought concessions from SMOC on issues far afield of anything to do with parking. True and correct copies of the minutes of the meetings dated October 12, 2006, November 9, 2006, December 7, 2006, January 4, 2007 and January 25, 2007, are attached at Exhibits 54-58, respectively.

148. For example, the Planning Board, although somewhat more cautious in its approach, continued to revisit the issue of Dover Amendment protection. Without limitation, and by way of example only, this included:

(i) Using public hearing time to entertain comments from Adams and other members of STEPPS in which they insisted that no “determination” of Dover Amendment status had ever been made vis-à-vis the Sage House Program and urged the Planning Board to itself make the determination, either directly or indirectly.

(ii) Requiring SMOC to summarize multiple times the basis for the finding that the proposed use for 517 Winter Street is a Dover Amendment protected use and to detail how the Zoning By-Law applies for the Sage House Program.

(iii) Indicating that the Planning Board still intended to have a discussion on whether the Sage House Program qualified for Dover Amendment protection and/or whether the Planning Board is allowed to make that determination.

(iv) Specifically encouraging further submission to the Planning Board of comments and information from the public on the Dover Amendment issue.

149. The Planning Board also continued improperly to revisit issues related to the location of the entrance to the property, landscaping and requiring a “green screen” to “shield” neighbors from the Sage House Program, the location of the children’s playground, and what use SMOC would make of the building’s basement, among many others.

150. With respect to parking, the only issue even properly before it, the Planning Board members dragged the issue out for months. Although they finally agreed on a location for the parking lot at the end of the October 12, 2006 public hearing, it took another six months and more than six (6) iterations of the parking plan before the Planning Board finally reached consensus on and approved the final plan.

151. While the Planning Board’s public hearings relative to the Sage House Program were still proceeding, members of the Board of Selectmen and the Town Manager were coordinating with STEPPS members to delay, obstruct and impermissibly “review” the Sage House Program.

152. In October 2006, the Board of Selectmen again became involved in review of the Sage House Program when it voted to subject the program to scrutiny regarding its zoning

protection under the Dover Amendment. Following this decision, the Board of Selectmen, incredibly, asked the then newly-acting Building Commissioner Michael F. Foley, to “review” the Dover Amendment exemption for 517 Winter Street. On November 1, 2006, Foley responded by Memorandum to Town Manager Suso dated November 1, 2006, and expressly confirmed that the Sage House Program at 517 Winter Street qualified as a Dover Amendment protected property. A true and correct copy of Mr. Foley’s Memo is attached at Exhibit 59. The Planning Board nevertheless continued to address the applicability of the statute and to take public testimony attacking the Building Commissioner’s findings.

153. As part of the evidence of coordination between Adams and other STEPPS members and elected and appointed Town officials, on November 7, 2006, the Town Manager wrote to Adams, thanking Adams, Laurora, Lee and other members of STEPPS for discussion and information “at our October 20 meeting on Dover Amendment issues in general and 517 Winter Street in particular.” The Town Manager went on to state, “[a]s noted in our meeting, pursuant to a discussion with the Board of Selectmen, we are developing a set of standardized, routine guidelines for Building Commissioner review of proposed Dover-exempt projects in the future.” The “standardized, routine guidelines” included the development of a new form entitled “Supplemental Information for Applications Seeking Exempt Use Status.” One of the items on the form requested information about the funding sources for the proposed exempt use. This request is itself discriminatory against applicants with Dover Amendment protected uses because it requires the submission of this information from applicants attempting to site nonprofit educational programs or housing for handicapped individuals only and does not require information about funding sources from others who seek a building permit or occupancy certificate. A true and correct copy of the November 7, 2006 letter is attached at Exhibit 60.

154. On November 22, 2006, Building Commissioner Foley, at the direction of the Town Manager, wrote and asked SMOC to submit additional information pursuant to the newly-devised “Supplemental Information for Applications Seeking Exempt Use Status.” Although Building Commissioner Foley indicated that the form was “not mandatory,” he noted that

submission of the form would “assist the office and applicants in qualifying the use exemption being sought and expedite the process of review.” The clear implication of the request was that the Dover Amendment status of the Sage House Program was still somehow under review and that its application would be further delayed if it did not comply with the request. Given that all information that could permissibly be requested from SMOC (and a great deal more) had already been submitted, SMOC declined to complete the form. A true and correct copy of the letter is attached at Exhibit 61.

155. In November 2006, in an effort to further delay the relocation of the Sage House Program and to deny disabled individuals and families that could have been placed there the benefit of the program, several Town Meeting members, including Laurora, joined other Framingham residents in filing nineteen (19) complaints that either 61 Clinton Street or 517 Winter Street (or both) were not in compliance with zoning requirements. On information and belief, months before, in advising the Board of Selectmen on proactive steps they could take to close SMOC’s Common Ground Shelter, Town Counsel had advised that the best approach would be to have abutters file complaints about that shelter and then the Town could act upon the complaints. The complaints about the Sage House Program came after that advice from Town Counsel and, on information and belief, were instigated by Adams and other STEPPS members and others acting in concert with them, including elected and appointed Town officials. The complaints were purportedly directed at the 61 Clinton Street location but most were aimed at 517 Winter Street although it was impossible for 517 Winter Street to be out of compliance since it had not yet been sited. The so-called “complaints” did not contain any specific allegation of a zoning violation, but rather, collectively, constituted nothing more than yet another improper attempt to have the Building Commissioner reexamine the rulings already made that the Sage House Program at 61 Clinton Street and the program proposed for 517 Winter Street both qualified as exempt under the Dover Amendment.

156. Without limitation, and by way of example only, the “complaints” alleged:

- “not in compliance with the law”

- “not in compliance with zoning, Building Commissioner needs to thoroughly review program”
- “question Building Commissioner’s ruling that this is a Dover exempt property”
- “SMOC does not meet Dover at this address (61 Clinton Street) and should not on 517 Winter Street – non compliant”
- “attempting to open a neighborhood drug rehab center. This type of facility in [sic] unfit for this concentrated neighborhood”

True and correct copies of the “complaints” are attached at Exhibit 62.

157. Although the tactic did not work because the Building Commissioner ultimately determined that the complaints were without basis, it did require SMOC to undergo additional, unwarranted scrutiny and to provide information about the history of the 61 Clinton Street property in connection with Building Commissioner Foley’s “investigation” of the complaints.

158. Also in November 2006, as further evidence of the fact that the Town was proactively attempting to reverse the Building Commissioner’s multiple findings confirming that SMOC’s proposed use of 517 Winter Street was protected by the Dover Amendment, Town Counsel wrote a memorandum to the Board of Selectmen addressing their questions about applying new criteria for Dover Amendment protection to existing uses. A true and correct copy of Town Counsel’s November 28, 2006 Memorandum is attached at Exhibit 63. In his memorandum, Town Counsel stressed that “[w]hether a proposed use is entitled to Dover Amendment exemption requires examination by the Building Commissioner, using his independent judgment, of the information presented to him. The determination of the Building Commissioner must be an honest, uninfluenced opinion rendered in good faith. . . not a decision resulting from interference with the Building Commissioner’s duties by other town officials.” (citations omitted). Town Counsel advised that, given the two previous finding that the use was exempt, “the Building Commissioner should stand by these determinations unless he obtained evidence that the information provided by the applicant . . . contains fraudulent misrepresentation.”

159. Town Counsel's Memorandum also addressed the Board of Selectmen's direct question as to "whether any new procedures or checklists" for "reviewing applications under the Dover Amendment" could be applied to 517 Winter Street and concluded that

[a]pplying new guidelines or procedures for determining Dover Amendment educational uses, where the Town does not generally apply guidelines or procedures retroactively, could be deemed to violate the federal Fair Housing Act ("FHA") if challenged in court. . . . In addition, the Americans with Disabilities Act and the Federal Rehabilitation Act also prohibit a town from zoning practices which discriminate against handicapped persons.

Of course, by this time, the Building Commissioner, at the Town Manager's direction, had already asked SMOC to complete, after-the-fact, the newly created "supplemental" form for those claiming Dover Amendment exemption.

160. At its third public hearing addressed to "Site Plan Review" for 517 Winter Street, on December 7, 2006, the Planning Board invited members of STEPPS to present a PowerPoint presentation over SMOC's vehement objection. The presentation, while discussing some site conditions, again addressed the Dover Amendment use issue and focused primarily on supposed public safety and program concerns, none of which were proper areas of inquiry. A true and correct copy of the PowerPoint presentation is attached at Exhibit 64.

161. During the PowerPoint presentation, the STEPPS presenters indicated that "line item number 390 in Sage House Budget allocates \$48,650.00 for facility items specifically including a PILOT" and sought agreement from SMOC to make PILOT payments. At the time, and as alleged in more detail below, the Town had established a committee to research and institute a Payment In Lieu of Taxes ("PILOT") program for nonprofit social service agencies and the committee had issued majority and minority reports on their findings and recommendations.

162. In response to the STEPPS presentation, one Planning Board member asked SMOC to explain why the Sage House Program budget would include an item for PILOT

payments and, incredibly, whether SMOC would agree to make a PILOT payment. As it turned out, in fact, the budget contained no such line item.

163. The Planning Board also opened the public hearing on SMOC's application for a Public Way Access Permit ("PWAP") during the December 7, 2006 hearing. The need for this permit had been triggered by the fact that the Fire Department wanted a curb cut on the driveway entrances to the property to allow access for the Fire Department's largest vehicles. SMOC had filed an application for the permit on October 12, 2006.

164. Following the December 7, 2006 public hearing, the Planning Board sought input from the Traffic and Safety Committee, a subcommittee of the Board of Selectmen, on the proposal by STEPPS that the driveway entrances to the 517 Winter Street property, which were on a side street and had served the site since at least 1960, be replaced or supplemented by a Winter Street curb cut. The Traffic and Safety Committee, chaired by a member of the Board of Selectmen, held a meeting and recommended adding the Winter Street curb cut and driveway. This was an extraordinary recommendation given that the Traffic and Safety Committee had sought no input from SMOC and apparently made its decision without the benefit of any professional traffic analysis. SMOC had submitted to the Planning Board a traffic memorandum prepared by MDM Transportation Consultants, Inc., dated June 15, 2006. The MDM study demonstrated that the proposed use as the Sage House Program would reduce trip generation to the site in comparison to the previous use as a 55-bed nursing home facility. The managing principal of MDM also testified before the Planning Board, offering his opinion that a Winter Street curb cut was unnecessary and violated sound planning principles. SMOC also presented a memorandum to the Planning Board on December 5, 2006, setting forth the schedule for commercial vehicle trips to the Sage House Program facility which consisted primarily of a few food trucks per week. Neither the Planning Board nor the Traffic Safety Committee offered any engineering analysis to support the additional curb cut.

165. By this time, the Sage House Program had been under review for more than a year and had been subject to review by all Framingham Town departments, including a Departmental

Staff Meeting on May 23, 2006. No department, prior to the hastily called Traffic and Safety Committee vote, had considered or suggested an additional Winter Street curb cut. The clear intent by STEPPS members and the Town officials (including Town Meeting Members, members of the Planning Board and members of Board of Selectmen) acting in concert with them, was to prevent future development of the site by placing a curb cut on the Winter Street side of the property, and to further delay deliberation on the Site Plan Review.

166. On January 2, 2007, in anticipation of the next scheduled public hearing, SMOC submitted additional information to the Planning Board Administrator to address several questions raised by the Planning Board and members of the public at the December 7, 2006 public hearing. Although each of the questions raised fell outside of the permissible scope of Site Plan Review for a Dover Amendment project, SMOC again agreed to provide information it was not required to provide just to attempt to move the already 18-month long process towards completion:

(i) First, SMOC clarified that its smoking policies complied with the Family Shelter Guidelines issued by the Department of Public Health which require that written policies be established to ensure that the service site is tobacco free. SMOC explained that the Sage House Program would, therefore, not permit smoking within the facility and that to further discourage the use of tobacco, it did not intend to designate a smoking area.

(ii) Second, SMOC confirmed that the budget narrative for the Sage House Program did not include a line item for a PILOT payment as referenced during STEPPS members' PowerPoint presentation at the December 7, 2006 public hearing.

(iii) Third, SMOC clarified that it could not impose a Framingham resident selection policy for admission to the Sage House Program. As SMOC explained, it operates the program under contract with the Department of Public Health, which, in turn, has a contract with IHR. IHR is charged with screening and referring families to programs like the Sage House Program throughout the Commonwealth. SMOC explained further that any such preference policy for Framingham residents would likely run afoul of the Fair Housing Act.

(iv) Finally, SMOC noted that it had provided a general program schedule for activity at the Sage House Program, but that the more detailed schedules requested by a speaker at the December 7, 2006 public hearing could not be provided because residents' daily programs are specific to their individual treatment plans.

167. The January 4 and 25, 2007 public hearings were more of the same. Members of STEPPS, including Adams, Laurora, and Lee appeared and "commented" on various matters which, again, were not within the scope of what the Planning Board had before it. Improperly influenced by STEPPS members and, on information and belief, members of the Board of Selectmen, the Planning Board pressed for and SMOC agreed to make a number of concessions that went beyond anything properly before the Planning Board. SMOC agreed, again, to attempt to close the review process and to accommodate neighbors' concerns.

168. At the January 25, 2007 hearing, Laurora, on behalf of STEPPS, presented a letter to the Planning Board members and to the Planning Board Administrator, in which STEPPS members made 22 "Neighborhood Requests for SMOC – 517 Winter Street ("Sage House")" attempting to extract concessions from SMOC and to have the Planning Board formalize the "requests" as conditions to its Site Plan Approval for the Sage House Program. The requested "concessions" or "conditions" were extraordinary and had no reasonable relation to anything properly before the Planning Board. Without limitation, and by way of example only, STEPPS members requested that:

- SMOC shall make an annual PILOT payment
- All prospective Sage House clients shall have undergone 90 consecutive days of detoxification treatment immediately prior to entering the Sage House program
- There shall never be more than 18 residents at 517 Winter Street (based upon its attempt to apply an inapplicable use category to the property)
- SMOC agrees not to develop any of the four ANR lots that SMOC has surveyed on the 517 Winter Street parcel and shall limit the entire parcel of property to the Sage House Program

- Regular BSAS reviews of the Sage House Program shall be submitted to the Building Commissioner and Human Services Coordinator

A true and correct copy of the STEPPS “Neighborhood Requests” is attached at Exhibit 65.

169. During the course of the public hearings, the Planning Board also spent considerable time attempting inappropriately to find ways to limit future development of 517 Winter Street. The Planning Board accepted and considered suggestions to provide a driveway from Winter Street to the facility (and thus impairing further subdivision of the land) and also considered an outright prohibition against further subdivision of the land. These considerations, like most of what the Planning Board considered in the course of the eighteen (18) months that the Sage House Program was before it for “limited” Site Plan Review, were not permissible topics for Site Plan Review for a Dover Amendment protected property and, if implemented, would violate SMOC’s right to use and enjoy its property as guaranteed by the United States Constitution.

170. Ultimately, after seven (7) lengthy public hearings, the Planning Board finally closed the public hearing on the Site Plan Review and on the PWAP for 517 Winter Street at the end of the January 25, 2007 hearing. It had been eighteen (18) months since SMOC filed its initial Change of Use Application and a full year since it filed its initial Application for Site Plan Review. The Attorney General’s caution that it would be unreasonable to require a Dover Amendment protected project to wait nine to twelve months for site plan review had been flagrantly cast aside. Disabled individuals and their families who needed housing were left waiting. And they would wait eight more months before SMOC received even a temporary occupancy permit for 517 Winter Street.

171. Although newly-hired as the Town’s Human Services Coordinator, Silver did not waste any time before joining the efforts to interfere with or block altogether SMOC’s efforts to site the Sage House Program at 517 Winter Street. On January 29, 2007, Silver made a direct call to IHR, the Sage House Program’s referral source. During the call, Silver told IHR in no uncertain terms that the Town was going to make it difficult for SMOC to move the Sage House

Program to the Winter Street property and that it would be years before they moved in, if at all. SMOC believes, and therefore alleges, that this particularly inappropriate attempt to influence third parties with whom SMOC has contracts to assist it in providing social services to those in need was not isolated.

172. In the months that followed, while the Planning Board was debating, preparing and revising its decision on Site Plan Review for 517 Winter Street, Adams and Orr also continued their defamatory attack:

(i) On February 2, 2007, Orr posted on Frambors, falsely, that “SMOC has an entire division devoted to housing. **This division maintains a database of landlords who are known to not conduct CORI checks.**” Orr repeated this libel in a separate post on February 17, 2007, where he stated, “SMOC (as one example) **maintains a database of landlords whom are known to not conduct CORI checks.**” A true and correct copy of Orr’s post is attached at Exhibit 66 (emphasis added).

(ii) On February 16, 2007, Adams posted on Frambors:

Based on this virtually unchecked power, four social service agencies are actively working on a “Screw Framingham” contest: . . . **SMOC. Clearly the worst of the bunch, they are bringing prostitutes, drug addicts, and other criminals from across the state to live in Framingham** using their Dover Amendment trump card. If anyone complains, they cry ‘discrimination’ and threaten to sue. . . their [Spectrum’s methadone clinic] presence in town is a linchpin to SMOC’s growth strategy. (For instance, SMOC sends its Sage house residents to the methadone clinic for treatment.)

A true and correct copy of Adams’ post is attached at Exhibit 67 (emphasis added).

(iii) On March 22, 2007, Orr posted on Frambors the following false and defamatory statement:

SMOC’s very business model is defined such that for them to continue to thrive the way they have been, they *have* to get people from outside of Framingham. **They troll the cities, the prisons, everywhere they can to find substance abusers and violent criminal offenders to place them here in Framingham.** Once they’re here, they get some of the help they need in a “program” which lasts for some period (maybe 6 weeks, 6 months, whatever) and they graduate to the next program in their COC. That opens a spot in the previous program which is then occupied by the next **wino . . . crim . . . client.**

A true and correct copy of the post is attached at Exhibit 68 (emphasis added).

173. At the same time, Orr decided to start a social service agencies watch (“SSA Watch”) on Frambors which would “have an occasional posting of items, plural, from the paper or the police blotter, of people who are contributing to the draining of our resources, whose addresses are owned or run by social service agencies.” A true and correct copy of Orr’s post is attached at Exhibit 69. The idea was to post every time a municipal service (fire department, police department etc.) was called for by a social service facility and to single out residents of social service agency properties. As further evidence of Siciliano’s coordination with Orr and the other Individual Defendants, Siciliano responded shortly thereafter with a post of his own: “Steve, I think you know how I feel about your idea, so let’s go for it. Frambors does have some power and influence in Framingham, if for no other reason than its sheer numbers. If we do this for a year, and come out with a net of one less social service agency in town, or we stop the expansion of another, then it is well worth the space on your server.” A true and correct copy of Siciliano’s post is attached at Exhibit 70.

The Planning Board Attempts to Impose Illegal Conditions on the Sage House Program

174. After multiple admonitions and numerous warnings from Town Counsel and SMOC about the limited scope of its review, either improperly influenced by STEPPS members and those acting in concert with them or harboring their own discriminatory animus, or both, the Planning Board members, in drafting their decision on SMOC’s Application for Site Plan Review and for a PWAP, sought to impose conditions on SMOC that they knew they had no right to impose, including without limitation, the following:

- **Special condition 2** requiring SMOC to inform the Massachusetts Department of Public Health in writing that Framingham has requested that current Framingham residents or relatives of Framingham residents be given preference for selection
- **Special condition 3** purporting to prohibit SMOC from subdividing the lot for additional development
- **Special conditions 5 and 14** prohibiting sleeping accommodations in common areas and attempting to regulate the use of the basement

- **Special condition 6** attempting to limit programs at site for only occupants of the Sage House Program
- **Special condition 8** requiring SMOC to meet with Town officials to discuss a PILOT payment

175. Town Counsel reviewed the draft decision and advised with respect to each of these proposed “special conditions” that they were improper because they were beyond the scope of site plan review, were improper for Dover Amendment protected uses, and could result in a violation of state or federal law. A true and correct copy of Town Counsel’s memo to the Planning Board is attached at Exhibit 71.

176. On April 5, 2007, the Planning Board voted to approve Site Plan Review, but denied SMOC’s PWAP for 517 Winter Street, effectively stalling the project indefinitely. There was absolutely no basis in the written decision adopted by the Planning Board to deny the PWAP. On information and belief, Town Counsel intervened and the Planning Board revised its decision on April 12, 2007, when it decided to grant the Public Way Access Permit as well. A copy of the decision dated April 5, 2007, redlined to show changes made after Town Counsel’s February 8, 2007 Memo, together with a copy of the final decision is attached at Exhibit 72. A copy of the minutes of the April 12, 2007 Planning Board meeting is attached at Exhibit 73.

Anonymous Town Actors Leak a Confidential 51A Report

177. The next day, following the Planning Board’s decision finally to end its review and to approve the permits SMOC needed to occupy 517 Winter Street, certain of the Individual Defendants determined that even more drastic measures were needed.

178. On April 13, 2007, Orr posted on Frambors a not so cryptic message about an “anonymous contact” that made it clear that a confidential report made pursuant to G.L. c. 119 §51A that alleged neglect of children by employees of the Clinton Street Sage House Program had been leaked to him by unidentified Town officials or employees:

I received an anonymous contact which I have since confirmed. It seems that a couple of SMOC employees who work at the SAGE house on Clinton St are being investigated for smuggling drugs into one or more prisons. The SAGE house on Clinton St is a program for “recovering” substance abusers *and their

children*. The charges are being investigated by the Dept. of Public Health Licensing Division, which is the agency that SMOC reports to. The SAGE house is the same program that SMOC is trying to relocate to the old former nursing home at 517 Winter St. The investigation is somewhat more urgent simply because children are involved.

A true and correct copy of Orr's post is attached at Exhibit 74.

179. The post referred to a report filed by the Framingham Police Department under G.L. c. 119, § 51A, alleging neglect by two staff members of children residing at Sage House at 61 Clinton Street ("51A Report"). The report followed an investigation by the Department of Corrections ("DOC") about an alleged plan by two Sage House employees to bring drugs into MCI-Shirley in late 2006. The DOC investigation led to no arrests, no Sage House employee brought drugs into MCI-Shirley, and the Framingham Police Department decided not to pursue the matter. Given the allegations and the nature of the Sage House Program, SMOC believed, however, that it had no choice but to terminate the two employees allegedly involved.

180. Although it had done nothing for months, without speaking to SMOC, the Framingham Police Department reopened the case on or about March 20, 2007 and prepared and filed the 51A report with DSS. DSS forwarded the 51A Report to BSAS on or about March 23, 2007. During a joint investigation by BSAS and DSS, DSS informed SMOC administration that the name of a third employee of Sage House also appeared in the DOC report. As a result of the information received by SMOC from these investigations, it was decided that SMOC had no alternative but to terminate the third employee as well. As it turned out later, however, the information received by SMOC contained a number of inaccuracies.

181. The timing of the 51A Report and the fact and timing of its anonymous disclosure to Orr indicated a coordinated effort by anonymous employees within the Framingham Police Department and other of the Defendants in furtherance of their scheme to block SMOC's efforts to site the Sage House Program. The Police Department did not reopen the case or file the 51A Report until shortly after the Town received a request from the Disability Law Center for public records seeking all documents regarding all public meetings during which the Sage House Program was mentioned. SMOC believes, and therefore, alleges that the filing of the 51A

Report was retaliatory and that by filing the confidential report and, on information and belief, anonymously and improperly leaking it to Orr, John Does I-V and/or Jane Does I-V, a member or members of the Framingham Police Department or other Town officials or employees, intended to assist the other Defendants with their unlawful scheme to block SMOC's efforts to site the Sage House Program at 517 Winter Street.

182. Laurora posted on Frambors on April 14, 2007, to thank Orr for his message and to add, "[i]t's interesting that Framingham town government at first rejected, then blessed and voted to give SMOC drug dealing employees a larger environment to ply their trade. As Jim Hanrahan, SMOC's lawyer and a SMOC Executive Board of Directors member says, 'There's no gratification other than the fact that the town is finally abiding by the law in granting this permit.' My question to Jim is, 'Are your employees at least paying taxes on drugs they're peddling?'" A true and correct copy of Laurora's post is attached at Exhibit 75.

183. Adams, Orr and other of the Individual Defendants used the information leaked from the anonymous Town employee(s) to launch a new platform as part of their defamatory campaign in which they falsely and repeatedly told the public on the STEPPS website, in numerous posts on Frambors and elsewhere that SMOC allowed a drug smuggling operation to run out of the Sage House. These false and defamatory statements persist to this day.

184. Even before Defendants had received the BSAS Investigation Report (and indeed, even before it was completed), on April 14, 2007, Orr posted a message on Frambors in which he repeated, as fact, falsely, that Sage House employees dealt drugs out of the Sage House on Clinton Street. Orr's post first questioned why another poster had questioned the veracity of Orr's "statement about **SMOC employees dealing drugs into Massachusetts prisons**" and then went onto state, in relevant part,

The way I see it, we have **a program for drug addicts from out of town with a 60+% recidivism rate**, with their children being placed into our overextended school system at \$13k per, with a **substantial percentage of employees who are "former" substance abusers** being run by a company that is not willing to do an excellent job of running the operation, in a neighborhood that is terrified of loss of property value, on a lot that could allow more programs to be build, **being run**

partly by former drug addicts who went so far and [sic] to actually deal drugs.

A true and correct copy of Orr's post is attached at Exhibit 76 (emphasis added).

185. On May 11, 2007, Laurora wrote to the Executive Office of Health and Human Services ("EOHHS") to request a written copy of any allegations being investigated by EOHHS regarding the Sage House Program at 61 Clinton Street. On July 6, 2007, the EOHHS responded by letter with a copy of the BSAS Report, both of which promptly landed on the STEPPS website. A true and correct copy of a printout from the STEPPS website showing the July 9, 2007 entry with a link to the BSAS Report is attached hereto at Exhibit 77. The post by Orr and the subsequent post on the website spawned more defamatory postings on Frambors and on the STEPPS website. Without limitation, and by way of example only, Defendants issued the following false and defamatory statements knowing they were false or with reckless disregard as to whether they were true or false:

(i) On June 17, 2007, Orr posted on Frambors as part of a defamatory anti-SMOC rant, in relevant part:

What SMOC is trying to do to the Winter St neighborhood is to make money off of substance abusers, which is a polite word for heroin, crack, methamphetamines, crank, etc. . . . Things like some of the aforementioned drugs will make you a hopeless addict after at most just a few experiences. . . . What SMOC is looking at acquiring as clientele are the so-called '**recovering substance abusers**' who are running at a whopping 66% recidivism rate. These people have histories of violent crime, prostitution, burglary, **but no matter how you look at it, unless they have a nice trust fund, the drugs cost money and whatever it takes to get that money is how the drugs get paid for (Hopefully, the staff people of Sage House at 517 Winter won't be involved in actually supplying drugs like the staff at Sage House on Clinton St did to the Shirley Prison.)**

A true and correct copy of Orr's post is attached at Exhibit 78 (emphasis added).

(ii) On July 11, 2007, Orr posted on Frambors to complain that "[d]espite the story on frambors about **drug running going on out of SMOC's Sage House**, the local paper really didn't feel there was any need to do any follow-up." A true and correct copy of Orr's post is attached at Exhibit 79 (emphasis added). The false and defamatory statement that there was

“drug running going on out of SMOC’s Sage House” was later repeated multiple times by Orr and others in subsequent posts on Frambors. Orr added, falsely, “SMOC turned a blind eye to their funding source and even lied to them in their attempts to keep DPH out of the loop on the Sage House drug smuggling.”

(iii) Adams followed up on July 15, 2007, with a post on Frambors stating,

Unfortunately, town officials, while likely as outraged as the rest of us over **SMOC allowing a drug running operation to flourish right under their noses in a supposed drug rehab shelter**, have very little power to do anything.

* * *

SMOC then allowed a drug operation to flourish right under their noses, and when they were told about it, tried to hide it from DPH. . . . So it’s not just heroin addicts we need to worry about, but drug smugglers on staff . . .

* * *

This drug smuggling operation inside SMOC is just as shocking, and just as dangerous, as those horrific lapses by DSS involving the death or abuse of a child in their care.

A true and correct copy of Adams’ post is attached at Exhibit 80 (emphasis added).

(iv) To this day, the STEPPS website contains an entire page dedicated to discussing the supposed “drug smuggling operation” which contains numerous false and defamatory statements about SMOC, including by way of example only:

[SMOC] was **forced to dismiss two employees** after it was revealed that they had run a **drug running operation out of the Sage House** at 61 Clinton Street, smuggling drugs into state prisons.

Although SMOC was required to notify DPH of the incident, SMOC executive director Jim Cuddy decided not to do so.

[T]he **“proposed drug rehab shelter at 517 Winter Street is the same one that was found to be operating a drug running operation to a state prison.”**

See Exhibit 77 (emphasis added).

186. All of these statements were false and defamatory. There was no drug smuggling out of the Sage House at 61 Clinton Street. Investigations did not reveal any actual “drug

running” by Sage House employees, no arrests were made and employees who were alleged to be involved were terminated as soon as SMOC learned of the allegations that there might even be a plan by those employees to pass drugs into MCI-Shirley. As the BSAS Investigation Report available on the STEPPS website itself makes clear, there were allegations made, nothing more, and there was nothing that required SMOC to report to the Department of Public Health what were, at that time, unfounded allegations.

187. With no ostensible basis to delay any further, on August 2, 2007, at long last, the Planning Board approved the issuance of a temporary occupancy permit for 517 Winter Street by the Building Commissioner.

188. STEPPS members did not give up. When they heard that the temporary occupancy permit would soon issue to SMOC, on August 16, 2007, STEPPS members posted a not so subtle threat against Mr. Desilets in the form of a fake obituary. Under its “News & Updates” section, a section usually dedicated to what STEPPS purported were factual updates, STEPPS members posted:

August 16: STEPPS joins the rest of Framingham in mourning the passing of Jerry Desilets, former Town Moderator and SMOC’s director of policy and planning.

A true and correct copy of a printout of the relevant page of the STEPPS website is attached at Exhibit 81. Mr. Desilets was and is alive and well, but the clear intent of the statement was to send the message to Mr. Desilets and SMOC that STEPPS members were so desperate to stop the project that if it pursued its plans to site the Sage House Program at 517 Winter Street, harm might come to Mr. Desilets or others affiliated with SMOC.

189. By August 21, 2007, Human Services Coordinator Silver was making a presentation to the Board of Selectmen and proposing, among other things (i) a moratorium on the siting of social service facilities; and (ii) a “no stay” policy that required social service recipients to leave Framingham as soon as they completed programs. Selectmen announced the next day that they planned to sign a statement outlining the Town’s position on limiting the number of social service facilities in Framingham and affirming that Town officials believe the

expansion of social service agencies is hurting the Town. Selectmen stated that they believed this would give Silver the “ammunition” she needed to “negotiate” for concessions from social service agencies.

190. More than two years after filing its Change of Use Application, and after spending countless hours and significant financial resources attempting to relocate the Sage House Program, with a number of disabled individuals and their families deprived of that housing and the program benefits for this extended period of time, SMOC finally received a temporary occupancy permit for 517 Winter Street on August 23, 2007.

191. On September 20, 2007, Winter Street neighbor Lawrence Hendry filed an appeal of both the temporary occupancy permit and purportedly, and remarkably, of the Building Commissioner’s June 13, 2006 determination that the Sage House Program qualified as a Dover Amendment exempt use. The appeal is pending before the Framingham Zoning Board of Appeals. On information and belief, Hendry is affiliated with STEPPS and is obtaining legal assistance from a lawyer paid by funds raised by STEPPS. If a permanent permit issues, further appeal appears inevitable.

Social Service PILOT and Comparative Impact Study

192. In the months after SMOC executed the Purchase & Sale Agreement for 517 Winter Street, after STEPPS was formed and Frambors and the STOP SMOC websites created, on June 9, 2005, Town Meeting Members voted to fund the research and institution of a Payment In Lieu Of Taxes (“PILOT”) program for all nonprofit social service agencies in Framingham and to form a ten member PILOT Committee to (i) research and institute a PILOT program for nonprofit social services; and (ii) do a comparative impact study of social services in the Town.

193. Members of STEPPS, and other Town Meeting Members opposed to the Winter Street project were instrumental in authorizing the social services PILOT study. The study, sanctioned by Town Meeting and supported by the Board of Selectmen, empowered those opposing the siting of social service programs by SMOC and other non-profit agencies. Although tax exempt properties owned by nonprofit social service agencies constitute a small

fraction (approximately 4.2%) of the tax exempt property in Framingham, with the majority owned by the Commonwealth, the Town, schools and religious organizations, the PILOT study did not extend to all tax exempt property. The proposal to limit the study to social service agencies was based on the premise, announced repeatedly on the Town Meeting floor, that Framingham was “overburdened” by social service agencies which acted as a magnet for homeless individuals, people seeking treatment for substance abuse problems, and other “undesirable” individuals seeking the services of a social service network. Esty was vocal during the meeting and integral to limiting the PILOT study to only social service agencies (she suggested, in fact, that it be limited only to Dover Amendment projects).

194. On July 26, 2005, at a meeting of the Board of Selectmen, the Town Moderator appointed, from a pool of applicants, five members to the PILOT Committee, including Orr and Lee; the Board of Selectmen then considered the rest of the applicants and voted to choose the last five members, including Laurora.

195. In December 2005, the Board of Selectmen and the PILOT Committee asked Town Counsel to review whether liability might be imposed against the Town for any of the Committee’s activities as of that date, which primarily included sending a questionnaire to nonprofit social service agencies seeking certain information on a voluntary basis. Town Counsel responded in a December 12, 2005 Memorandum. Although Town Counsel warned that limiting a PILOT program to nonprofit social service agencies could raise issues of disparate treatment, he noted that this was not the question before him and instead, the thrust of his memo appears to be that the PILOT Committee was not violating the law – yet (at least not based upon the fact that they sent voluntary questionnaires to social service agencies). A true and correct copy of the Memorandum is attached at Exhibit 82.

196. In May 2006, PILOT Committee members issued two reports. The majority report concluded, among other things, that social service agencies have a disproportionate impact on the Police Department, Fire Department and School Department, and negatively affect property values and income growth. As it turns out, however, the majority’s approach was to

start with the answers it wanted and to fill in the facts it needed to get those answers. A true and correct copy of the Majority Report is attached at Exhibit 83.

197. Four members of the Committee issued their own minority report a few days later, citing “real concerns about the inclusion of some of the data that appears in the final report of the committee.” As the minority report explained,

The primary concern that we have regarding the final report of the committee is the use of “plausible” data. **When statistical data that proved a direct connection between social services and impact to Framingham was not available, the majority of the committee felt it wise to include data that may lead one to a certain conclusion that is not statistically proven.** We disagree with this tactic. Town Meeting requested, and the town deserves, hard data that either proves or disproves certain claims. **Concerns on the use of plausible data were raised numerous times by each member of this minority group throughout the course of our committee work, but the majority did not agree and in the end included an entire section on plausible data that we feel is misleading.**

A true and correct copy of the Minority Report is attached at Exhibit 84 (emphasis added).

198. The PILOT concept was a significant factor at the Planning Board hearings regarding 517 Winter Street. Throughout the course of the public hearings before the Planning Board for the Sage House Program, Bernstein persistently and repeatedly asked SMOC to make PILOT payments despite being advised by Town Counsel that it was outside the purview of limited Site Plan Review. SMOC consistently stated that it would not discuss that issue in the context of Site Plan Review. The Planning Board, as already alleged, even attempted unlawfully to condition its approval of SMOC’s Applications for Site Plan Review and PWAP on SMOC’s agreement to meet with Town officials to discuss making a PILOT. Although Town Counsel intervened and the condition was removed, the policy of bullying nonprofit social service agencies into making PILOT payments is very much alive in Framingham.

199. Indeed, the policy was formally adopted by the Board of Selectmen on October 2, 2007, when they voted to approve a PILOT program that allows Town officials to request “voluntary” payments from nonprofit entities. The aim was to target nonprofit social service agencies and the message to those nonprofit social service agencies, and in particular to SMOC,

which has been specifically identified by Town officials as a “target” of the program, is that the Town can and will make things difficult unless SMOC “voluntarily” contributes to the Town.

Defendants Attempt to Pressure SMOC by Attacking Other Projects

200. After SMOC purchased 517 Winter Street to relocate the Sage House Program, Defendants intensified their attacks on SMOC’s other programs.

105 Irving Street – The Common Ground Shelter

201. SMOC formerly operated the Common Ground Shelter at 105 Irving Street in Framingham as an emergency residential shelter program for economically disadvantaged adults, many of whom suffered from mental health and substance abuse disabilities. The Common Ground Shelter was originally opened by the Framingham Clergy Association as an overflow shelter because the State-funded emergency shelter operated by SMOC (The Turning Point) was operating at capacity. It was also opened following the death of a homeless individual who froze to death in the woods by the railroad tracks in downtown Framingham. SMOC had run the Common Ground Shelter since 1995. It was funded through charitable contributions, a United Way contribution, funding from the Metrowest Health Care Foundation and small contracts funded through the state and federal government. The Common Ground Shelter was an emergency overnight shelter that served as a private residence for those in need of emergency housing. It was the only emergency housing program for individuals whose substance abuse disabilities were “active” and it unfortunately became known as the “wet shelter” despite SMOC’s best efforts to refer to it as Common Ground.

202. Before the Common Ground Shelter was closed, Town officials engaged in discriminatory behavior toward SMOC and the participants in the program. Although it faced opposition before, however, after SMOC purchased 517 Winter Street in June 2005, the Common Ground Shelter came under direct fire. The vocal minority of Framingham residents, including STEPPS members and other elected and appointed Town officials opposed to SMOC’s plans to relocate the Sage House Program to 517 Winter Street attempted to use the Common

Ground Shelter to gain support for their crusade against disabled individuals and nonprofit social service agencies, and specifically against SMOC.

203. On October 24, 2005, two elected Town officials, Town Meeting Member Orr and (now former) Town Meeting Member Andrew Limeri (who was predictably endorsed by STEPPS when he later ran for a position on the School Committee) appeared at the Common Ground Shelter between 8:00 and 9:00 p.m. and inappropriately gained access to the shelter by telling staff they were there under the authority of a “Selectmen’s Committee”, that they were “authorized”, and that they wanted to “inspect” the shelter. The manager on duty felt compelled to allow them to enter given their stated “official” status. Orr and Limeri effectively trespassed on SMOC property because, in Orr’s words, they wanted “to see what was going on,” and thus wrongfully intruded on the privacy of the disabled individuals who were in residence at the Common Ground Shelter. Those disabled people, already in need of help with nowhere else to go came to Common Ground Shelter counting on a reasonable level of privacy, anonymity and freedom from invasive inspections or inquiries. The “visit” by Orr and Limeri was aimed clearly at intimidating SMOC and the disabled population it serves and sending a message that there was a segment of town officials and private citizens that would stop at nothing to get them out of Framingham. The experience left shelter employees and a number of the disabled adults in residence at the Common Ground Shelter extremely upset and fearful.

204. Orr later bragged about the incident to fellow Town Meeting Member Dawn Harkness, boasting that he gained entry to the Common Ground Shelter by telling a shelter employer, “It’s OK. I’m authorized” and that he “pulled a Detective Fontana” on the employee, a reference to Detective Joe Fontana, a fictional New York City detective on the television series, “Law and Order.” Orr explained to Harkness that when Detective Fontana wants to get a look at information he does not have a warrant for or permission to see, he says, “It’s OK. We’re authorized.” Ms. Harkness informed SMOC about Orr’s visit to the Common Ground Shelter and his discussion with her about it and expressed concern for the privacy rights of the disabled

clients living there. A true and correct copy of an email from Dawn Harkness to SMOC officials is attached at Exhibit 85.

205. The unauthorized, invasive and bizarre “visit” to the shelter by Orr and Limeri turned out to be only the tip of the iceberg. With SMOC’s plans to relocate Sage House to 517 Winter Street already significantly delayed due to Defendants’ wrongful acts, Defendants continued their efforts to attack SMOC and the disabled population it serves by attacking the Common Ground Shelter. Indeed, although the shelter had been operational since the mid 1990s, in July 2006, in the midst of the Sage House controversy, the Board of Selectmen voted to reexamine whether SMOC provided the educational activities it claimed to provide at the Common Ground Shelter and thus to reexamine whether it was entitled to Dover Amendment protection. The Town and Town officials with no authority to do so thereafter launched an “investigation” into the Common Ground Shelter that involved the most threatening, intimidating and coercive means available. Without limitation, on information and belief, elected and appointed Town officials directed Town departments, including the Police Department and the Building Department, to directly interfere with SMOC’s ability to operate the Common Ground Shelter and to harass the disabled individuals who lived and sought shelter there in a purported effort to “investigate” its educational use.

206. For example, SMOC believes and, therefore, alleges that elected and appointed Town officials repeatedly pressured the Town’s Building Commissioner to revisit and reverse his original determination that the Common Ground Shelter qualified as an exempt use under the Dover Amendment in an attempt to obtain the ability to challenge SMOC’s use of the 105 Irving Street facility as an emergency shelter program and ultimately to shut it down. Although Building Commissioner Mikielian had confirmed in late June 2006 that the Common Ground Shelter qualified as exempt under the Dover Amendment, under pressure from other Town officials, including, on information and belief, Giombetti, Esty and Smith, each of whom had expressed publicly and repeatedly that they wanted the shelter closed, the Building Commissioner agreed once again to revisit his decision. During the summer of 2006, he began

an investigation, requiring additional information from SMOC and scheduling an unprecedented meeting with SMOC staff who worked at the facility to determine what services were being provided to the disabled adults in residence. These actions were unprecedented and discriminatory. No other social service program had ever been subjected to this type of Building Department review of its Dover Amendment protected status; this is precisely the type of monitoring that Town Counsel recognized and warned in the context of the Sage House Program would result in civil rights violations. SMOC nevertheless complied and provided extensive additional and detailed information about its educational programs at the Common Ground Shelter to the Building Commissioner in writing in July and August 2006 and met with the Building Commissioner as requested.

207. As part of the overall conspiracy to violate the civil rights and other secured state and federal rights of SMOC and the protected class of disabled persons it serves, on or about August 22, 2006, the Police Department began to “stop and question” residents of the Common Ground Shelter about the services they received at the shelter. Two police detectives arrived at the shelter at 8:45 a.m. and informed the shelter’s director that they were “investigating” the educational use of the shelter and indicated that the “investigation” would continue for approximately two weeks. After interviewing the director at length, they returned and visited the shelter a number of times throughout the day, parked in front of the shelter in police cars, and interviewed shelter residents on the streets of Framingham. The detectives even attended an Alcoholics Anonymous meeting at the shelter and interviewed at least one participant. This type of “investigation” was unprecedented and singled out the Common Ground Shelter for unlawful monitoring and disparate, discriminatory treatment. The effect of these “stop and question” episodes was predictable and intended: the disabled individuals “interviewed” by the Framingham Police were extremely threatened by the experience. The Police Department’s actions ended only after SMOC protested and a number of news articles appeared detailing them.

208. On September 27, 2006, and, on information and belief, under pressure from other elected and appointed Town officials, in his last days as Building Commissioner in Framingham

and on his way out of Town to take a position as Code Enforcement Officer in Worcester, Building Commissioner Mikielian wrote a memorandum to Town Counsel, Town Manager Suso and to then acting Building Commissioner Foley. In the memorandum, Mikielian reversed his original opinion (which he had just confirmed on June 29, 2006) that the shelter was worthy of Dover Amendment protection, stating “[t]he primary purpose...is to offer shelter to individuals who may or may not be presently intoxicated or under the influence of drugs . . . Education is only ancillary.”

209. SMOC closed the Common Ground Shelter on October 16, 2006 as the first step in a four-part strategic plan to end homelessness in the Metrowest region of Massachusetts. SMOC presented the plan, the culmination of six months’ work, at an open community meeting on June 14, 2006 and widely distributed copies of the plan to elected and appointed Town officials and to the news media. Only one member of the Board of Selectmen even bothered to attend the community forum. SMOC’s plan, described in a paper entitled, “Ending Homelessness for Single Adults in the MetroWest Region of The Commonwealth of Massachusetts,” acknowledged the fundamental tenet that every person deserves a home and carried forward SMOC’s belief that emergency shelter is a temporary solution and not the ultimate answer to the problem of homelessness, in part because shelters are temporary and keep people “in limbo”, making it difficult to put other pieces together, including family, work, school and, for some, sobriety. A true and correct copy of the plan is attached at Exhibit 86.

210. Ultimately, even after SMOC had announced plans to voluntarily close the Common Ground Shelter as part of its detailed plan to end homelessness, Defendants used the occasion to make knowingly false and defamatory statements about SMOC, about its operation of the Common Ground Shelter, and about the reasons the shelter ultimately closed, including, without limitation, and by way of example only, the following:

(i) On or about September 29, 2006, Esty told the Metrowest Daily News, falsely, that SMOC decided to close the Common Ground Shelter in response to a “threat of legal action”:

“I believe they've made the right decision for themselves,” she said. “They avoided a test case that would affect siting for similar buildings across the state. They’ve had pressure before, which they've ignored, so there has to be another reason why they're closing that shelter at this point.”

A true and correct copy of the article from www.smocingham.org is attached at Exhibit 87.

(ii) The Metrowest Daily News reported on October 5, 2006, that Giombetti, too, stated that SMOC decided to close the shelter because it was “intimidated” by the possibility of a lawsuit to close the shelter. The article also confirmed again that Esty had told the paper that SMOC was closing the shelter to avoid a legal fight with the Town. A true and correct copy of the article from www.smocingham.org is attached at Exhibit 88.

(iii) On March 22, 2007, Orr posted a message on Frambors in which he implied, falsely, that the Town had forced the Common Ground Shelter to shut down and that SMOC had been caught “secretly importing winos” from out of town to fill up the shelter:

As an extreme case, **Framingham was able to shut the infamous wet shelter down**. . . . Before the shelter was closed, SMOC was caught multiple times with their pants down (so to speak), **secretly importing winos** from Waltham and using the Store 24 as their drop-off point so that people wouldn’t see them getting door-to-door service directly to the shelter.

See Exhibit 68 (emphasis added). All of these statements were false and Defendants knew them to be false. SMOC had presented its plan to end homelessness four months before and closing the Common Ground Shelter was explicitly part of that plan.

3 Merchant Road – Turning Point Shelter

211. With the Common Ground Shelter closed, Defendants turned their attention to attacking SMOC’s Turning Point Shelter at 3 Merchant Road in Framingham and the disabled and vulnerable residents of that shelter. 3 Merchant Road is a facility that SMOC has leased from the Commonwealth since 1971. It is a building located on the grounds of MCI-Framingham. Between 1971 and 2003, SMOC operated a state and federally funded medical detoxification facility licensed by the Massachusetts Department of Public Health for individuals

suffering from substance abuse. The detoxification facility closed in 2003 when the state reduced the number of all “detox beds” in the Commonwealth by fifty percent (50%).

212. In the fall of 2003, SMOC moved its Turning Point Shelter program from its location at 73 Hollis Street in Framingham (where it had operated since 1987) to the 3 Merchant Road facility. The Turning Point Shelter is an 18-bed emergency residential program for single adults. It is funded by the state through the Department of Transitional Assistance.

213. After the Common Ground Shelter closed in October 2006, and in order to prevent death, disease and other negative consequences to homeless, disabled, single adults, SMOC modified the Turning Point program to a harm reduction model and allowed additional dually-diagnosed individuals – i.e., individuals diagnosed both with a severe mental health disorder and with a substance abuse problem – with active substance abuse problems to receive emergency shelter at Turning Point.

214. Despite SMOC’s attempts to explain the program, the successful closing of the Common Ground Shelter, and the significant reduction in the number of homeless, disabled single adults living in shelters (24 in February 2007 as compared with 63 in February 2006), and despite the Framingham Police Chief’s statement that without Turning Point, Framingham would experience deaths by exposure of disabled individuals, Town officials have claimed that SMOC is “playing a shell game” in its efforts to care for disabled, single adults. Town officials have clearly communicated their displeasure that SMOC continues to provide emergency housing and services to active, treatment resistant, dually diagnosed, disabled adults.

215. Once again, the Police Department, on information and belief at the direction of other Town officials, singled out residents of the Turning Point Shelter to question them about the activities inside the shelter just as they had with the Common Ground Shelter residents.

216. The Building Commissioner also began a review of SMOC’s legal right to occupy the facility. For example, on November 6, 2006, SMOC was called into a meeting of appointed officials, including the Town Manager, the Coordinator of Social Services, the Police Chief, the Deputy Police Chief, the Building Inspector and Town Counsel. The stated purpose of the

meeting was to discuss the Turning Point Shelter program at the 3 Merchant Road facility. During the meeting, the Town Manager indicated the issue might explode at the next Board of Selectmen's meeting. The meeting itself resulted from political and community pressure and it was unprecedented. On information and belief, no other social service program has been or is being subjected to this type of harassment or this level of scrutiny and monitoring and this potential level of interference.

Defendants' Ongoing Discrimination

90 Lincoln Street: Larry's Place – A Homeless Veterans Residence

217. The most recent targets of Defendants' coordinated assault on SMOC and the disabled population it serves are homeless disabled veterans of this country's Armed Forces.

218. In 2005, SMOC purchased a 4000 square foot building at 90 Lincoln Street in Framingham to establish a supportive residential program called "Larry's Place" for homeless veterans of the Armed Forces who have physical or mental disabilities, which include past substance abuse. The program will serve people like the 46-year-old homeless Marines veteran and longtime Framingham resident who has been living at Turning Point Shelter with chronic orthopedic problems. He cannot have hip replacement surgery because the orthopedic surgeon will not conduct the surgery while this veteran is living in a shelter. Also waiting to be placed at Larry's Place is the 36-year-old Army veteran from Framingham who is a chronic alcoholic and needs treatment and education to gain skills to find his way back to an independent alcohol free life. These individuals and others like them faithfully served their country and now all they ask is for a roof over their head and the training they need to put their lives back together.

219. The residents of "Larry's Place" will be required to participate in educational programs to assist them, through peer support and structured educational programs, to secure employment and to achieve economic independence and self-sufficiency. SMOC has received funding for this project from the federal government, through the United States Department of Housing and Urban Development ("HUD") and from the state, through the Department of Housing and Community Development.

220. The 90 Lincoln Street property is located in a business district and consists of a two-and-one-half-story, free standing building that is one of three separate buildings which comprise the Lincoln-Henry Condominium. Records show that the property was used as a single or multiple family residence until 1990, when it became the offices of the Metrowest Medical Center and later Wayside Youth and Family Services.

221. On July 11, 2007, SMOC submitted a Building Permit Application for 90 Lincoln Street to Building Commissioner Foley and asked that he (i) determine that the proposed project is a nonprofit educational use subject to the protection of the Dover Amendment; (ii) determine that the proposed use is not a change of use as that term is used in the Framingham Zoning By-Law or, in the alternative, to approve a change of use for the property without referring the project to the ZBA for a Special Permit; and (iii) issue a building permit without referring the project to the Planning Board for Site Plan Review.

222. Contemporaneously with filing its Application, SMOC submitted to the Building Commissioner a detailed legal memorandum explaining why its intended use of 90 Lincoln Street qualified for protection under the Dover Amendment, demonstrating that the Federal and State Fair Housing Acts protected the intended use, and supporting its request for approval of a change of use without need for a finding or special permit from the ZBA. SMOC also specifically requested a reasonable accommodation in the form of allowing SMOC to operate Larry's Place as a nonprofit educational use in a business district and issuing change of use and building permits without imposing site plan review if such an accommodation was necessary at all. As SMOC pointed out then, these accommodations would neither cause identifiable hardship or fiscal or administrative burdens on the Town, nor undermine any legitimate local oversight of the Larry's Place program.

223. Despite the fact that all of the information that the Town may permissibly request for a property and use subject to Dover Amendment protection had been submitted with SMOC's Building Permit Application, on information and belief, under pressure from other members of Town government, including without limitation, members of the Board of Selectmen, Building

Commissioner Foley responded to the Application by asking SMOC to provide additional information in a form entitled “Supplemental Information for Applications Seeking Exempt Use Status.” Attempting to avoid the lengthy and unnecessary delays that had dragged on with respect to the Sage House Program, SMOC completed the form and submitted it, noting that SMOC had previously provided all permissibly requested information and reserving its right to challenge the legality of the requirement that it submit additional information.

224. SMOC’s supplemental submission included a detailed description of the educational programs provided onsite and offsite, qualifications of staff and educational providers, quantity of staff to be maintained and transportation for residents. It referred the Building Commissioner to its earlier comprehensive submission with respect to parking, floor plans, and a site plan showing a parking layout. SMOC declined only to provide information about its funding sources for the program. This request for funding sources, again, created an additional, distinct obstacle for siting nonprofit educational programs or housing for handicapped individuals that does not apply to others who seek a building permit or occupancy certificate. The request itself violates the Dover Amendment and other federal and state laws.

225. On September 18, 2007, on information and belief, under pressure from other members of Town government, including members of the Board of Selectmen, Building Commissioner Foley denied SMOC’s Building Permit for 90 Lincoln Street and all reasonable accommodations sought by it. Although finding that SMOC qualified as an organization meeting the criteria established by the Dover Amendment, the Building Commissioner found that the floor plans for 90 Lincoln Street did not “illustrate any common area where the residents may dine together, any area designated for educational [sic] and training” and, without explanation, that the information SMOC submitted otherwise did not demonstrate that the primary use of the property would be an educational use within the meaning of the Dover Amendment. Building Commissioner Foley referred to the “applicant’s reluctance to submit information supporting this proposed use” (which could only have referred to SMOC’s refusal to provide its funding sources) and determined that the intended use is a change of use and that the

plans do not reflect a group residence, but rather a boarding house under 780 CMR 310.2, requiring a Special Permit from the ZBA and full Site Plan Review by the Planning Board. A true and correct copy of Building Commissioner Foley's letter is attached at Exhibit 89.

226. This action by the Town through Building Commissioner Foley, effectively blocking, or at least significantly delaying SMOC's efforts to provide housing and education to disabled veterans of this country's Armed Forces, is simply the most recent in a long series of discriminatory and unlawful acts by the Town and elected and appointed Town officials acting at the behest of, in coordination with and with the substantial assistance of STEPPS members (some of whom are themselves Town officials) and others working with them. This strikingly misguided attack on homeless disabled veterans only further demonstrates the extreme lengths to which Defendants have been and are willing to go to deprive helpless disabled individuals of the social services they desperately need and, ultimately, to drive what they view as an "undesirable" segment of the population and any organization that might be willing to help it out of Framingham.

Lodging House Bylaw

227. On May 1 and 2, 2007, following a fire which destroyed a two family home in Framingham which had been used by its landlord as an unregistered lodging house, the Framingham Town Meeting Members discussed and adopted By-Law amendments including (i) Article 12 which adds a general By-Law concerning lodging houses; and (ii) Article 13 which amends the Town's schedule of fines. Article 12 is pending before the Attorney General; Article 13 has already been approved. A true and correct copy of Article 12 is attached at Exhibit 90.

228. SMOC operates six (6) of the thirteen (13) registered lodging houses in Framingham. A number of the lodging houses operated by SMOC are part of programs for recovering alcoholics and drug addicts, such as sober housing, post-detox or early recovery services, housing with onsite Alcoholics Anonymous meetings and educational programs, and services for dual diagnosis individuals (mental health/substance abuse). Article 12, if approved by the Attorney General's Office, would give the Town more authority to find and eliminate

substandard or overcrowded homes and more power to rid the town of illegal rooming houses; however, it goes beyond those worthy goals and targets a form of legal housing which serves a significant percentage of economically disadvantaged and disabled renters, and allows heightened scrutiny of tenants, prospective tenants, and even housekeeping matters, not required of other types of rental housing in the Town. The law, which allows fines of up to \$300 per violation per day, requires lodging house owners to exercise due care in selecting tenants, keep a log of all residents, have on-site supervision at all times if there are 12 or more units, and submit to annual inspections.

229. Although the stated purpose of Article 12 is described as supplementing state lodging house law “for the purpose of ensuring the maintenance and protection of the health, safety and welfare of all persons and the health, safety and general welfare of the public,” the record of the May 1 and 2, 2007 Town Meeting shows an additional, underlying discriminatory purpose. At the Town Meeting, Esty expressed the intent of the Town’s “overcrowding committee” in drafting the provision requiring “due care” in selecting lodging house residents, as follows:

I would like to address the question of due diligence in checking out the lodgers. That stems from the fact that it was uncovered that one of the agencies in Town has a contract with the Department of Corrections to house arsonists, sex offenders and criminals . . . The due diligence concerns the check with CORI, which is a criminal record check on potential lodgers. And one of the reasons why we wanted to make sure that that was mentioned was that in the narrative when this particular non-profit looks for the contract with the Department of Corrections, they spelled out how they would train people to urge landlords to NOT check CORIs . . . well, I know you’d rather we didn’t speak about this but it is very real in our community . . . well due care in checking out the background of the lodgers, is to protect other lodgers and the neighborhood from unwittingly from [sic] accepting lodgers who may have a criminal background.

230. This statement by Esty mischaracterized SMOC’s statewide contract with the DOC and followed months and months of false and defamatory statements by the Individual Defendants about SMOC’s contract with the DOC in connection with the Re-Entry Housing program.

231. Despite that Esty had her facts wrong and despite that her false comments about SMOC's contract with the DOC had nothing to do with the Articles on lodging houses, the theme of 'keeping out the undesirables' set by Esty continued during the discussion. For example, as one Town Meeting Member noted, "I have some relatives that are buried over in St. Stephen's Cemetery who would turn over in their grave if I rendered it to some elements who were mentioned here tonight . . ." These comments illustrate the extent to which the By-Law amendments were undertaken out of animus towards SMOC, social service agencies and their disabled clients, and continue the theme that has prevailed in Framingham since at least 2005.

232. Given the high percentage of lodging house residents in Framingham who are disabled according to state and federal law, Article 12, if approved, will have a disparately negative impact on housing for the disabled and thus treats disabled persons differently (and less favorably) than it treats non-disabled rental tenants in the Town. Several sections of Article 12 treat lodging house housing for disabled residents different than other forms of rental housing in the Town for unrelated persons. Without limitation, and by way of example only, the differences include:

- **Section 24.9(1)** - requires landlords to exercise "due care in the selection of lodgers"
- **Section 24.5** - requires collection of personal information, to be made available at all times to the Board of Selectmen, the police, building commissioner, and the town health department, beyond what is allowed under state lodging house statutes.
- **Section 24.4** - requires that lodging houses with more than twelve (12) units have a resident agent, and empowers the Board of Selectmen to require owners of some lodging houses with less than twelve (12) units to have an agent reside on the premises:
- **Section 24.24** - requires standards of interior cosmetics (i.e., walls painted and "free from stains")

233. No other form of housing in Framingham is subject to "due care" requirements in tenant selection, let alone subjects renters to vague selection requirements and invasion of their

privacy. To the extent that the Town truly wishes to remedy the problem of unlicensed lodging houses and to address overcrowding and fire safety, existing laws already provide the enforcement mechanisms needed to meet those goals. As reflected in Esty's own words, however, the attempt to amend the Zoning By-Law to add Article 12 is instead nothing more than another effort by the Town and its elected and appointed Town officials to attack SMOC and other social service agencies and thereby unlawfully to rid Framingham of the disabled individuals who rely on lodging houses as a means of avoiding homelessness.

STEPPS Declares "Victory" and Seeks Donations to "Finish the Job"

234. As evidence of the coordination between Adams and other STEPPS members, including other Town officials (Town Meeting Members, Members of the Board of Selectmen and the Planning Board), Adams and other STEPPS members recently issued a call for donations under the auspices of its "Victory Fund 2007." In the flyer advertising the Victory Fund 2007 and their request for contributions, STEPPS wrote: "STEPPS was formed in may [sic] 2005 to help stop a drug rehab from opening at 517 Winter Street and stem the growth of tax exempt social services in Framingham." A true and correct copy of the flyer is attached at Exhibit 91. The flyer went on to provide "a short list of what we have accomplished in just two years":

- Raised awareness in town regarding the unchecked growth of social services and the problem of the Dover Amendment
- Helped elect Jason Smith to the Board of Selectmen
- Helped close the infamous "wet shelter" downtown
- Helped convince the Town to hire a Human Services Coordinator
- Helped convince the Town to start a PILOT (Payment in Lieu of Taxes) Program
- Helped the Town pass a Lodging House Licensing bylaw to combat illegal lodging houses
- **Delayed SMOC for two years and endangered their HHS contract (emphasis added)**

235. The flyer went on to state, "**Now is the time for you to contribute to help finish the job!** Please give your most generous check (made out to STEPPS) to a STEPPS volunteer. .

.” (emphasis added). The flyer gave the donor the alternative of mailing the check directly to Adams at his home.

236. The “job” that Adams, now an elected Town official, other STEPPS members, including other Town Meeting Members, and those working in concert with them (some of whom are also elected or appointed Town officials) want to “finish” is their goal to put a stop to the Sage House Program once and for all and to continue to target nonprofit social service agencies that provide services to those that the Defendants deem to be “undesirable.”

237. In a September 30, 2007 post on Frambors, Adams reported on a recent “neighborhood meeting” and “developments in the fight against SMOC’s proposed drug rehab shelter at 517 Winter Street.” A true and correct copy of the post is attached at Exhibit 92. In his post, Adams stated that “SMOC is currently occupying 517 Winter on a temporary occupancy permit which expires in November. They hope to have their permanent permit by then. We [Adams and others working in concert with him] are working in the intervening time to convince the state to revoke their contract and pull their financing.” Indeed, on information and belief, Adams and others affiliated with STEPPS, including other elected and appointed Town officials, have been flooding the Department of Health and Human Resources (“HHR”) and the Massachusetts Department of Public Health with telephone calls and other communications in an attempt to interfere with SMOC’s contracts with those agencies based upon false and defamatory statements about SMOC and the disabled clients it serves.

238. In addition, although only one name appears on the appeal to the ZBA of the Building Commissioner’s issuance of a temporary occupancy permit to SMOC and it is Lawrence Hendry, not Adams, Adams also bragged in his post that, “we are appealing to the ZBA on several grounds, including errors in SMOC’s application and challenging their use of the Dover Amendment” and sought contributions to fund legal help in the ZBA appeal.

COUNT ONE
(Conspiracy)
(SMOC and SMNPHC v. All Individual Defendants)

239. Plaintiffs repeat and reallege the foregoing paragraphs.

240. As described above, Defendants acted in concert and joined together in an unlawful and unfair manner, pursuant to a common design to threaten, coerce, intimidate, injure and defame SMOC and SMNPHC and their employees and disabled clientele.

241. Each Defendant knew or in the exercise of reasonable care should have known about the conduct of the others and about the common tortious scheme.

242. Each Defendant gave substantial assistance and/or encouragement to the other Defendants, with the knowledge that this assistance contributed to the common plan to defame SMOC and SMNPHC, to interfere with their federal constitutional right to use and enjoy their property, and to violate the federal and state statutory rights of SMOC and of disabled individuals and families who are the actual and intended recipients of services provided by SMOC through its social service programs. As a result, each Defendant is responsible for the defamatory, tortious and wrongful acts of the other Defendants.

243. Defendants, acting jointly in an uncommon uniting of individuals, private residents, and elected and appointed Town officials, also had a stronger and more peculiar power and ability to threaten, intimidate and coerce, SMOC and SMNPHC and their employees and their disabled clientele than if any of the Individual Defendants had acted alone.

244. As a direct and proximate result of the Defendants' civil conspiracy, SMOC, SMNPHC and their employees were threatened, intimidated and coerced in their efforts to site social service programs and to provide services to disabled individuals and families and their disabled clients were deprived of their secured federal and state statutory rights. As a result of Defendants' conspiracy, SMOC and SMNPHC have also suffered monetary losses.

245. Defendants are each jointly and severally liable in damages to SMOC and SMNPHC.

COUNT TWO
(Violation of the Fair Housing Act, 42 U.S.C. §3601 et seq.)
(SMOC and SMNPHC v. All Defendants)

246. Plaintiffs repeat and reallege the foregoing paragraphs.

247. By engaging in the conduct described above, which includes threats, intimidation and/or coercion, Defendants have imposed and/or sought to impose patently inapplicable, unreasonable and arbitrary conditions to prevent SMOC and SMNPHC from siting and operating the Sage House Program and Larry's Place and have otherwise engaged in a pattern of obstructionist behavior which had the purpose and/or effect of interfering with the rights to use and enjoy housing of SMOC, SMNPHC and the disabled population they serve.

248. The actual and prospective residents of the Sage House Program and Larry's Place are handicapped within the meaning of the Fair Housing Act and Defendants knew or should have known them to be handicapped within the meaning of the Fair Housing Act.

249. The unlawful obstacles erected by Defendant to, and their interference with the siting and operation of the Sage House Program and Larry's Place have been motivated, at least in part, by the disability of the intended residents of those programs, by the association of SMOC and SMNPHC with individuals with disabilities and by the response of the Town and elected and appointed Town officials to political and other pressures of residents who are hostile to persons with disabilities.

250. The Defendants' actions had a significantly adverse or disproportionate impact on disabled individuals.

251. Defendants have refused to make requested, reasonable accommodations necessary to afford disabled persons an equal opportunity to use and enjoy a dwelling, and the failure to make those accommodations has negatively impacted disabled persons because they are disabled.

252. Defendants knowingly and willfully violated Plaintiffs' rights under the Fair Housing Act and/or acted with reckless disregard for those rights.

COUNT THREE

**(Violation of the Americans With Disabilities Act, 42 U.S.C. §§12101 et seq.)
(SMOC and SMNPHC v. Town of Framingham)**

253. Plaintiffs repeat and reallege the foregoing paragraphs.

254. By engaging in the conduct described above, the Town, through elected and appointed Town officials and employees, has unlawfully discriminated against SMOC, SMNPHC and the disabled population they serve by excluding them, and denying them benefits of the Town's zoning, building permit and related activities and by preventing and/or delaying the operation of the Sage House Program and Larry's Place.

255. The conduct of the Town and its elected and appointed Town officials and employees was motivated by a discriminatory intent and/or had a disparate impact on Plaintiffs and the disabled individuals who were to live at the relocated Sage House Program and/or Larry's Place.

256. Defendants knowingly and willfully violated Plaintiffs' rights under the Americans with Disabilities Act and/or acted with reckless disregard for those rights.

COUNT FOUR

**(Violation of the Federal Rehabilitation Act of 1973, 29 U.S.C. §§794 et seq.)
(SMOC and SMNPHC v. Town of Framingham)**

257. Plaintiffs repeat and reallege the foregoing paragraphs.

258. By engaging in the conduct described above, the Town, through elected and appointed Town officials and employees, has unlawfully discriminated against SMOC, SMNPHC and the disabled population they serve by excluding them, and denying them benefits of the Town's zoning, building permit and related activities and by preventing and/or delaying the operation of the Sage House Program and Larry's Place.

259. The conduct of the Town and its elected and appointed Town officials and employees was motivated by a discriminatory intent and/or had a disparate impact on Plaintiffs and the disabled individuals who were to live at the relocated Sage House Program and/or Larry's Place.

260. Defendants knowingly and willfully violated Plaintiffs' rights under the Federal Rehabilitation Act and/or acted with reckless disregard for those rights.

COUNT FIVE

**(Violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. §1983)
(SMOC and SMNPHC v. Town of Framingham and Peter C.S. Adams, Steven Orr, Laurie Lee, Cynthia Laurora, Dennis Giombetti, Ginger Esty, Jason Smith, Susan Bernstein, Carol Spack, Andrea Carr-Evans, Ann Welles, Alexis Silver, Julian M. Suso, John Does I-V and Jane Does I-V, each in their individual and official capacities)**

261. Plaintiffs repeat and reallege the foregoing paragraphs.

262. By engaging in the conduct described above, the Town and elected and appointed Town officials and employees, including Defendants Adams, Orr, Lee, Laurora, Giombetti, Esty, Smith, Bernstein, Spack, Carr-Evans, Welles, Silver, Suso, John Does I-V and Jane Does I-V, acting under the color of law, knowingly, intentionally and egregiously violated Plaintiffs' rights and the rights of the disabled population they serve under the Fair Housing Act, the Americans with Disabilities Act, the Federal Rehabilitation Act and the Substantive Due Process, Equal Protection and Takings Clauses of the United States Constitution.

263. As a direct and proximate result of these Defendants' violations of 42 U.S.C. §1983, Plaintiffs have suffered substantial damages.

COUNT SIX

**(Violation of the Massachusetts Civil Rights Act, M.G.L. c. 12, §§11H-11I)
(SMOC and SMNPHC v. All Individual Defendants)**

264. Plaintiffs repeat and reallege the foregoing paragraphs.

265. By engaging in the conduct described above, which includes threats, intimidation and/or coercion, the Individual Defendants, individually and collectively, interfered with or attempted to interfere with and deprive Plaintiffs of their use and enjoyment of their real property which is secured under the United States and Massachusetts Constitutions, and interfered with or attempted to interfere with and deprive Plaintiffs and the actual and prospective residents of the Sage House Program and the prospective residents of Larry's Place their rights under the Federal Fair Housing Act, the Federal Housing Amendments Act, the Americans with Disabilities Act,

the Federal Rehabilitation Act, the Dover Amendment and the Substantive Due Process, Equal Protection and Takings Clauses of the United States Constitution. The interference or attempted interference with these rights constitute corresponding violations of the civil rights of Plaintiffs and the current and prospective residents of Sage House Program and the prospective residents of Larry's Place pursuant to G.L. c. 12, §§ 11H-11I.

266. As a direct and proximate result of the Individual Defendants' violation of G.L. c. 12, §§ 11H-11I, Plaintiffs have suffered substantial damages.

COUNT SEVEN

(Defamation)

**(SMOC and SMNPHC v. Adams, Orr, Wolfe, Esty, Giombetti, Laurora,
Siciliano and Jane or John Doe)**

267. Plaintiffs repeat and reallege the foregoing paragraphs.

268. Defendants Adams, Orr, Wolfe, Siciliano, Esty, Giombeti, Laurora and Jane or John Doe each published false statements of fact of and concerning SMOC and SMNPHC, knowing they were false or with reckless disregard as to their falsity. In so doing, these Defendants held the SMOC and SMNPHC up to public scorn and ridicule. Many of these Defendants' statements were defamatory and/or defamatory per se. A list of defamatory statements published by these Defendants is attached hereto at Tab A.

269. As a result of these Defendants' actions, Plaintiffs have suffered and continue to suffer damages.

COUNT EIGHT

(Preliminary and Permanent Injunctive Relief v. Town of Framingham)

270. Plaintiffs repeat and reallege the foregoing paragraphs.

271. Plaintiffs are likely to succeed on the merits of their claims.

272. Plaintiffs will be irreparably harmed absent injunctive relief.

273. The public interest and the balance of the equities favors the entry of injunctive relief requested by Plaintiffs.

274. Plaintiffs request that the Court enter a preliminary and permanent injunction ordering the Town of Framingham to comply with the Fair Housing Act, 42 U.S.C. §3601 et seq., the Americans with Disabilities Act, 42 U.S.C. §§12101 et seq., the Federal Rehabilitation Act of 1973, 29 U.S.C. §§794 et seq., the Dover Amendment, G.L. c. 40A, §3, and all other applicable federal and state laws.

275. Plaintiffs request that the Court take supervisory jurisdiction over the Town of Framingham's actions to ensure compliance with the Fair Housing Act, 42 U.S.C. §3601 et seq., the Americans with Disabilities Act, 42 U.S.C. §§12101 et seq., the Federal Rehabilitation Act of 1973, 29 U.S.C. §§794 et seq., the Dover Amendment, G.L. c. 40A, §3, and all other applicable federal and state laws.

WHEREFORE, Plaintiffs South Middlesex Opportunity Council, Inc. and South Middlesex Non-Profit Housing Corporation respectfully request that the Court grant them the following relief:

- i. enter judgment on each and every Count of the Complaint in their favor and award them damages in the amount so assessed by the jury against each Defendant, jointly and severally;
- ii. enter a permanent injunction ordering the Town of Framingham to comply with the Fair Housing Act, 42 U.S.C. §3601 et seq., the Americans with Disabilities Act, 42 U.S.C. §§12101 et seq., the Federal Rehabilitation Act of 1973, 29 U.S.C. §§794 et seq., the Dover Amendment, G.L. c. 40A, §3, and all other applicable federal and state laws;
- iii. take supervisory jurisdiction over the Town of Framingham's actions to ensure compliance with the Fair Housing Act, 42 U.S.C. §3601 et seq., the Americans with Disabilities Act, 42 U.S.C. §§12101 et seq., the Federal Rehabilitation Act of 1973, 29 U.S.C. §§794 et seq., the Dover Amendment, G.L. c. 40A, §3, and all other applicable federal and state laws;

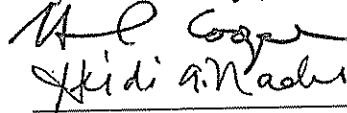
- iv. enter a permanent injunction ordering the Town of Framingham to issue within three (3) business days of the order a permanent occupancy permit to SMNPHC for 517 Winter Street and to refrain from impeding, delaying or interfering with the siting or operation of the Sage House Program at 517 Winter Street;
- v. enter a permanent injunction ordering the Town of Framingham to issue within ten (10) business days of the order all building permits, special permits and/or other licenses or authorizations necessary to allow SMOC and SMNPHC to site and operate Larry's Place at 90 Lincoln Street, and to refrain from impeding, delaying or interfering with the siting or operation of Larry's Place at 90 Lincoln Street;
- vi. award them their attorneys' fees and costs (including expert fees);
- vii. award them punitive and exemplary damages; and
- viii. grant them such other and further relief as the Court deems just and proper.

PLAINTIFFS DEMAND A TRIAL BY JURY ON ALL ISSUES AND CLAIMS SO TRIABLE.

Respectfully submitted,

SOUTH MIDDLESEX OPPORTUNITY
COUNCIL, INC. and SOUTH MIDDLESEX NON-
PROFIT HOUSING CORPORATION,

By their attorneys,



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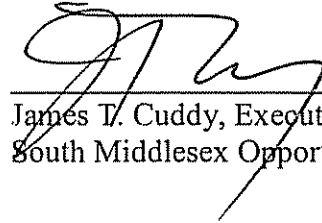
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Dated: October 24, 2007

Verification

I, James T. Cuddy, under the pains and penalties of perjury do hereby verify that the facts set forth above are true to the best of my knowledge or where indicated are true based upon my information and belief. I have personal knowledge of these facts or information has been provided to me upon which I base my belief.

A handwritten signature in black ink, appearing to read 'J. T. Cuddy', is written over a horizontal line.

James T. Cuddy, Executive Director
South Middlesex Opportunity Council, Inc.