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Gilsum

A housing battle

The state's only housing program for those with HIV sues its town

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They say they never wanted it to come to this. But nearly four years after deciding to make a large home in Gilsum the site of New Hampshire's only housing program for people with HIV, AIDS and hepatitis C, AIDS Services for the Monadnock Region is suing the town. They say that the restrictions Gilsum officials imposed on the program - including a ban on residents who haven't been out of prison for at least one year - keep them from helping those most in need. In the end, they say, a lawsuit was their only remaining option.

"These restrictions make no sense; they do not further public safety," said Bennett Klein, an attorney with Gay and Lesbian Advocates and Defenders, which is representing AIDS Services for the Monadnock Region. "At the same time, people who really need these services and have nowhere else to go are harmed."

The lawsuit is rooted in the argument that Gilsum's zoning board overstepped its authority when it imposed certain restrictions on Cleve Jones Wellness House, and that the restrictions violate the state constitution. When the zoning board gave AIDS Services approval to open the house, it banned the program from accepting residents with certain criminal histories, and those who haven't been out of prison and drug- and alcohol-free (if they have a history of alcohol or drug abuse) for at least a year. The variance also restricted the number of Wellness House residents to seven.

"This zoning is beyond the authority of the town to impose," said Klein, who also argues that the restrictions also violate the right to equal protection under the New Hampshire Constitution. "These kinds of restrictions are simply unfounded and are based on myths and stereotypes."

Attorney James Romeyn Davis, who represents Gilsum, said that the town's position is that all of the conditions are legal, and points out that AIDS Services agreed to the conditions when the application was before the zoning board.



KEN WILLIAMS / Monitor staff
Bobby Mouzon enjoys his coffee on a beautiful fall day at the Cleve Jones Wellness House in Gilsum. It serves those with HIV, AIDS and hepatitis C.

The lawsuit is the latest twist in the complicated relationship between the housing program and Gilsum, a small town of about 800 near Keene. From the beginning, some residents and town officials made their distaste for the program clear. Soon after residents learned of AIDS Services for the Monadnock Region's plans to create the home in the final days of 2004, a petition began circulating through town.

"We the residents of Gilsum, New Hampshire do not want AIDS Counseling Services to locate to High Street," stated the petition, which was launched by residents Ray and Allison Britton, according to the lawsuit against the town. "High Street is a family neighborhood with children and a facility like that is not wanted here." By New Year's Day 2005, 68 Gilsum residents had signed the petition. Britton has since become a Gilsum selectman.

Although residents overwhelmingly passed a zoning change barring "boarding houses" from the Gilsum village district in March 2005, AIDS Services eventually won approval from town officials to operate, albeit with restrictions.

Even before AIDS Services filed a lawsuit against the town last week, the uneasy relationship between the town and Wellness House had spawned legal action: The town recently filed a lawsuit against AIDS Services, alleging that the group had violated some conditions that the zoning board placed on Wellness House.

Resident reactions

Early opposition in town to Wellness House was rooted in a lack of knowledge about HIV and AIDS, said Bruce Murphy, a Gilsum resident who served on the board of directors of AIDS Services for eight years.

"People just had no clue of the illness," said Murphy, who recalled that some individuals were worried about Wellness House residents going to the village store and touching the door handle, which they worried could expose children to disease.

HIV can be found in body fluids including blood, semen and vaginal fluids, and can be transmitted by having sex with someone who is HIV positive or sharing needles with or receiving a blood transfusion from someone who has HIV. It can also be transmitted during pregnancy, birth or breast-feeding if a mother has HIV, according to the government. Hepatitis C is a blood-borne disease.

"It's really sad that it's come to where it is today," Murphy said.

Davis said that the selectmen opposed the creation of Wellness House because the town lacks a full-time police or fire department, as well as a medical facility or public transportation. The location, the selectmen felt, simply wasn't right, Davis said. "We had reasons that had purely to do with infrastructure," he said.

Interviews last week with Gilsum residents turned up several who didn't want Wellness House in town, or who had mixed feelings about the program.

"It's not a big enough community to have something like that - especially right in the middle of town where the kids are," said Harley Maguire, who has lived in town since 1961.

One of Maguire's neighbors, Gloria Fisk, said that she hasn't heard much from Wellness House since it

opened. But she would rather that it weren't in town. "We had enough trouble with the girls," Fisk said, referring to the fact that the Wellness House property previously served as a home for troubled girls. "We didn't need more trouble, as far as I was concerned."

Mary Hull, who has lived in Gilsum for six decades, said that her feelings about Wellness House are mixed. "I can understand how people feel, but I have no grievance against it myself," Hull said. "The people actually do need the help."

Wellness House does have its supporters in town. "Has anything happened? I guess that's proof enough that it's a good thing," said Michael Becker-Whyte, who is originally from upstate New York.

"There really is an almost 50-50 division of the town," said Gilsum resident John Brewster, who used to own a café in Keene, which people from AIDS Services frequented.

"Here's an organization trying to help people who really need help," Brewster said. "I'm not sure it's a fear of the house itself. I think it's the fear of AIDS, and a lot of the misinformation that goes around about AIDS and the people who have AIDS."

Gilsum selectmen wouldn't comment for this article, citing the new lawsuit against the town.

Filing suit

Klein filed the lawsuit against Gilsum on Wednesday in Cheshire County Superior Court.

In the petition, Klein asks the court to prevent the town from enforcing several restrictions in the variance that Gilsum officials granted Wellness House in 2005.

According to the lawsuit, the town didn't have the legal authority to impose several of the restrictions listed in the variance, including a ban on Wellness House from accepting residents who have been released from prison within the last year and those with histories of drug or alcohol abuse who haven't been drug- or alcohol-free for a year.

The other restriction in question concerns a ban on residents with past convictions for the manufacture of controlled substances, for sexual assault or sexually related crimes, and for certain forms of theft. The town also bars those who have been convicted of a violent crime within the last five years.

"What it really means is individuals who have been released from prison for less than 12 months can live anywhere in Gilsum," Klein said. "They just can't live in this house, ironically where they are actually getting support, monitoring and oversight. That's a condition that makes no sense."

The restrictions have kept Wellness House from serving some in need, said Susan MacNeil, who served as executive director of AIDS Services for the Monadnock Region until earlier this year, and who now sits on the group's board of directors.

"I probably turned away a dozen people at the start," MacNeil said. "The tragedy was we had worked so hard to address everything to the best possible degree that we could . . . then we had people at our door wanting to come in, and they were the people who needed us most."

Davis, the attorney who represents Gilsum, said that the restrictions were imposed "hopefully so there would be less need for services that we knew couldn't be provided."

Last week, Davis had yet to fully review the lawsuit. But he raised questions about whether AIDS Services had let too much time pass before filing the lawsuit. "We believe that many of the claims are . . . time-barred because there was no direct appeal" of the variance or the site plan review, Davis said.

Apart from the issue of timing, Davis said that he didn't think the claims raised in the lawsuit would succeed in court.

Klein disputed the timing question, saying that "the legal claims that we are bringing against Gilsum can be brought at any time."

As AIDS Services' lawsuit against Gilsum winds through court, the town's lawsuit is also progressing. In that lawsuit, town officials allege that AIDS Services has violated some of the conditions of the variance, pointing to a convicted sex offender who stayed at Wellness House for a short time, according to news reports. A Wellness House official told the Keene Sentinel that the crime didn't appear in a background check they ran on the man, and that staff have changed the way they conduct such checks to prevent future incidents.

A judge in Cheshire County Superior Court issued a preliminary injunction requiring Wellness House to comply with the conditions. The town is seeking compliance, attorneys' fees and civil penalties, Davis said.

Elliott Berry of New Hampshire Legal Assistance is representing AIDS Services in that case. "I'm very optimistic that to the extent that there were compliance problems, they've been taken care of," Berry said. A trial is scheduled for December, but Berry hopes to resolve the case before then. "There doesn't seem to be (any) question about current compliance."

The home's history

From inside Wellness House, you'd never know the controversy surrounding the program.

The bedrooms - each resident gets a private room - are neat, filled with donated furniture. There's a lending library, a fireplace, and a vegetable garden. If you've visited the home recently, you may have seen 42-year-old Bobby Mouzon in the kitchen, cooking for himself and the home's other residents.

Mouzon, who is HIV positive, came to Wellness House in January. "I wanted someplace that was quiet and relaxing, and that's what it's been here for me," said Mouzon, who previously lived in the Boston area. "Even though I just have a room, it's a house to me. I'm very comfortable here."

Many residents come to Wellness House at a difficult period in their lives, and Mouzon was no exception. A former minister in the Apostolic Church, which Mouzon described as a strict denomination that doesn't accept homosexuality, Mouzon learned three years ago that he had contracted HIV from his partner. "He actually knew he was HIV positive before I met him, and he lied to me," Mouzon said.

In a short time, Mouzon went through a divorce from his wife, left the church and stopped working as a

respiratory therapist. After hearing about Wellness House from a friend, Mouzon moved to Gilsum.

There is no limit on how long residents can stay at Wellness House. But Mouzon said that he doesn't plan to remain permanently. At some point, he hopes to move to the West Coast.

"That's part of my reason for being here - re-establishing myself," Mouzon said.

At Wellness House, employees closely monitor and support residents, intervening when they notice that residents have stopped taking medications or are missing Alcoholics Anonymous meetings, among other problems. Employees also help residents find jobs and enroll in classes, among other tasks.

AIDS Services officials were drawn to the property because, in its previous incarnation, it served as a group home for troubled girls. "The template had already been set," MacNeil said.

But no one in the organization anticipated the resident reaction. "It was a very difficult time," MacNeil said. The day she went to introduce herself to the selectmen, she was met with the petition from Gilsum residents. The organization hosted informational meetings, hoping to educate residents about HIV, AIDS and hepatitis C.

Residents still voted to change the zoning law, however, forcing AIDS Services to apply for a variance. During the hearings on the variance, attorneys for AIDS Services told the zoning board about federal cases regarding discrimination against people with disabilities in group housing, according to the lawsuit against the town. The variance was granted, but with the restrictions. When they could, AIDS Services staff worked to address the town's concerns, MacNeil said.

Looking back, "we, generally speaking, have been welcomed by our neighbors. We have improved the quality of the property. . . . We've caused no trouble," MacNeil said. "I would say that it's a small, core group of people, among them some authorities in town, who seem to have an ongoing issue with us being here."