

# Attorney on group home: Don't like it? Then move

A state lawyer, defending the state's right to set up a respite-care home for the mentally retarded on Emerson Hill, suggested yesterday that seven residents opposed to the plan consider moving to another area.

"It's too dangerous," said Assistant Attorney General John L. Stolfi, referring to arguments by the residents' attorneys that the often steep hills in the area made it difficult for even them to move about.

Establishment of such a home in such an area, however, would be "tantamount to inviting disaster," said James J. Burns of 10 Diana Trail, an attorney who resides next to the proposed home at 8 Diana Trail. He also is one of the

plaintiffs.

Supreme Court Justice Charles R. Rubin reserved a decision on the residents' motion to bar the state temporarily from proceeding with plans to open the home. The residents hope to obtain a permanent injunction.

Burns and his co-counsel, Ralph Avella, also a resident and plaintiff, argued in addition to the dangers: They claimed were inherent in the terrain, that the home would reduce property values. They also maintained that the one-family house, if used as a respite-care facility, would be in violation of the state's own building code.

While the concept of such facilities is to locate them in community settings,

the lawyers argued that the sparsely settled area of Emerson Hill in which they reside is a "colony" on which there are restrictive covenants in the deeds. To lay aside these covenants, the state must prove a "dire need" for their actions, they said.

The house at 8 Diana Trail contains 2½ bedrooms. The house has been owned by state since 1968 and was used until 1978 as a residence for doctors and their families. It is now vacant.

Rubin expressed interest in statements in the house would be used for transient residents. Avella commented that any facility, including the Staten Island Developmental Center, Willowbrook, could be utilized as a respite house.

Stolfi explained that the purpose of such a facility was to provide a respite for families who feel a need for having a

retarded relative cared for by someone else for a brief period, with 30 days being the maximum period that a person could stay at the home.

Up to three retarded persons could be accommodated at the house, and there would be round-the-clock care by workers.

Although it was reported that the director of the Staten Island Development Center said that the house would open Jan. 1, Stolfi indicated that between three and six months would be required by the state to carry out an architectural study to determine that the house meets that state's building code.

Stolfi argued that the motion for the temporary injunction should be denied because the plaintiffs had failed to prove they would be irreparably harmed by the opening of the facility, or that the proposed usage was contrary to a one-family home in an area zoned for such housing.