

Decision reserved on group homes

Supreme Court Justice Charles R. Rubin reserved decision yesterday after hearing arguments on a state motion to dismiss the petitions of two organizations attempting to prevent group homes for the mentally retarded from opening in their communities.

Deputy Assistant Attorney General Robert L. Schonfeld argued that neither the Grasmere Homeowners Association nor the Dongan Hills United Units had legal standing to bring the actions.

Schonfeld said Community Board 2 was the proper group to mount a court challenge to set aside the September ruling of James E. Introne, commissioner of the Office of Mental Retardation and Developmental Disabilities, approving the sites of two group homes. Schonfeld said Community Board 2 chose not to dispute Introne's ruling.

Rubin indicated that the key issue before him was the "legislative intent" behind procedures in the state Mental Hygiene Law governing challenges to the selection of group home sites.

John S. Wellekens, who represents the Grasmere Homeowners Association, pointed out that Community Board 2 was repulsed when it approached the city corporation counsel's office for legal assistance to challenge Introne's decision, and that it did not have funds to retain private counsel. The lawyer conceded, in a response to a question by the judge, that he had not volunteered his services to the board.

Elias R. Marino, who represents the Dongan Hills organization, joined Wellekens in arguing that the intent of the Legislature and the governor in promulgating the statute was to foster the interest of communities in group homes. Marino called for a "broad interpretation" of the statute.

Wellekens also called to the judge's attention that in a hearing before In-

trone the Grasmere Homeowners Association had been allowed to intervene, and that it did not make sense at this juncture for the state of New York to exclude the association from being a party in a followup action.

Introne handed down his decision on the suitability of sites for group homes at 630 Hylan Blvd. Grasmere, and 158 Cromwell Ave., Dongan Hills, after the state appealed Community Board 2's rejection of the sites.

The Grasmere and Dongan Hills organizations agree with the community board's finding that the board's area is

already "oversaturated" with community-based care facilities.

Schonfeld maintained that the legislative intent of the statute was to involve municipalities in the site selection process, as well as planning and development. His interpretation of the statute was that it excluded organizations such as the Grasmere and Dongan Hills groups from having roles to avoid prolonged litigation. He argued that the statute seeks to limit input to elected officials, sponsoring agencies or in this case, Community Board 2.