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Injunction granted in group homes dispute

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An attorney for an environmental group yesterday expressed hope that a judge's decision in the group's favor would lead to a "reasonable compromise," saving the remaining trees in Corson's Brook Woods while permitting the Staten Island Developmental Center, Willowbrook, to construct four group homes on its grounds.

Terence H. Benbow, who represents the Protectors of Pine Oak Woods, made the statement after Judge Rose McBrien, in an interim decision in the Supreme Court, yesterday granted the group's motion for a preliminary injunction, barring the state from proceeding with construction of the group homes pending a trial of the environmentalists' action for a permanent injunction.

The preliminary injunction replaces a temporary restraining order that has been in effect since Nov. 11. The environmental group brought the court action after members observed that 40 trees and underbrush had been removed as part of the site preparation work for two group homes which would house 24 mentally retarded clients from the center.

The state plans to build the group homes, followed by another two 24-bed facilities, in part of a 40-acre area that environmentalists want to preserve. In a February 1983 report, the City Planning Commission considered the Corson's Brook Woods second only to Blood Root Valley as the highest-quality undisturbed natural area remaining on Staten Island. City planners have recommended incorporation of the woodland into the Greenbelt, a large, preserved natural area that cuts through the heart of the Island.

Benbow said that in view of the judge's decision, it appears that the state would have to go

through a series of costly and time-consuming appeals, or a full trial, to build where it wants.

He indicated that time is a crucial consideration for the state. Under a deadline imposed by a 1975 federal court consent decree, the remaining 750 residents at the center are required to be placed in community residences over the next three years.

"I have every reason to believe we can come to a reasonable compromise," Benbow said.

The environmentalists said they support the construction of the group homes, but they want the structures built elsewhere.

Assistant Attorney General Roy Moskowitz, assigned to the state attorney general's litigation bureau, refused to comment on the case other than to say a decision will be made shortly on whether the state will appeal yesterday's court ruling.

In her decision, Mrs. McBrien noted that the federal plan to assimilate into the community the handicapped at Willowbrook has been in the works nine years.

"The necessity of rushing into this housing project at this time, at the expense of the environment, has not been demonstrated to the court," she said. Mrs. McBrien observed that the state decided to build group homes on land it owned to facilitate the assimilation of the clients from the center into the community. The state's decision was made because of widespread community opposition to having such facilities in their midst.

However, the judge said the state had failed to "adequately explain" to her why it chose to locate the four group homes on four acres of allegedly protected woodlands when the Staten Island Developmental Center comprises more than 380 acres.

James Walsh, Willowbrook's director, said the site was chosen because it was the only part

of the center's property that adjoins a residential neighborhood, an important factor in integrating the handicapped into the community. The area is off Forest Hill Road, south of the Institute for Basic Research in Mental Retardation.

The Protectors of Pine Oak Woods first learned of the plan in March. The judge said the environmentalists received assurances at that time that their concerns were "premature" in that nothing would be done without extensive community hearings. They claim this was not done, although Walsh went before Community Board 2 in September to outline the plans. He said he was informed that the board supported the state plan. The judge said she found "no factual evidence" to support "these bald conclusions."

On Nov. 9, the environmentalists discovered that 40 trees had been cut down and another 60 to 70 trees had been tagged for removal. They maintained that three-fourths of the woodland would be destroyed.

Mrs. McBrien disagreed with the state's contention that the Protectors and its president, Richard P. Buegler, lacked legal standing to bring the action or had failed to establish the necessary elements for granting a preliminary injunction.

The judge said, "The defoliation of state property which has been part of a proposed 'Greenbelt' for Staten Island is a legitimate concern of a group charged with protecting the area's woodlands."

She added that the harm already caused, coupled with the environmental group's allegation that the state acted in an "arbitrary and capricious manner" in proceeding with site preparation work, gave the group "the necessary standing to bring the action."

Mrs. McBrien said she found the environmentalists had established all the necessary legal elements for granting a preliminary injunction, including the fact that they would suffer "irreparable harm." She said, "Once the trees are destroyed, the battle is lost."

Mrs. McBrien said granting the preliminary injunction "does not mean handicapped housing will never be constructed in Corson's Brook Woods." However, she said the denial of the motion would mean "permanent and irreparable damage to the environment."

The Protectors demonstrated to her satisfaction that there was a "likelihood" it would prevail in its action for a permanent injunction, she said.

The environmentalists alleged that the state acted arbitrarily and capriciously "by rushing this plan through without full community participation, or perhaps in avoidance of such participation," the judge said.

In responding to these allegations, Mrs. McBrien said the state attached to its court papers "a ream of paper from (Brooklyn Federal Court) as if to suggest that this particular plan was envisioned or promoted by that court.

"This court sees no evidence of such intent. In fact, this court sees no evidence as to how this particular site within the Staten Island Developmental Center complex was chosen and why, other than some cursory rationale found in Mr. Walsh's affidavit."

She apparently referred to Walsh's assertion that it was necessary to build the group homes in an area on the grounds that adjoins a residential neighborhood.