

The Protectors had asked the governor to visit the site. One visit was scheduled but later canceled, due to time constraints, Cuomo aides said.

"I want to be able to fit that in," Cuomo said yesterday of the visit, "And we will."

"They (Protectors) felt that seeing it was a kind of irreplaceable experience and I'm sure they're right," he added.

Cuomo said he had not heard about the Appellate Division decision in the case.

Henrik Dullea, Cuomo's director of governmental operations, reasserted that the state's first priority in the dispute is serving the retarded. At the same time, he added, "We'll do everything we can to accommodate" the opponents.

Dullea said he met with state environmental and Office of Mental Retardation officials on the matter 10 days ago.

Terence H. Benbow, the lawyer for the Protectors, said he is "sorry" to hear that the state is going ahead with construction. "I would like to see them go ahead with the group homes, but in an area that's not detrimental to Corson's Brook Woods," he said.

He also questioned the propriety of the state proceeding with construction before the Protectors decide whether to appeal this latest ruling to the Court of Appeals, the state's highest, or before a trial is held in Supreme Court on the request for a permanent injunction.

"It would seem premature to go ahead with construction at this stage," Benbow said. "We've only heard from the Supreme Court and the Court of Appeal. We've won one and they've won one. We still got two more courts to hear from, the court of Appeals and the Supreme Court again."

Benbow said no decision has been made yet on filing an appeal, but "that would be a possibility if they go ahead with construction." The other, preferable alternative was an out-of-court settlement between the two parties, he said. To date, though, there has been no substantive movement toward such a settlement.

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