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Sent: Friday, March 25, 2011 2:57 PM
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Subject: lawsuit

[Wind Watch: Residents sue town over municipal wind turbine](#) more turbine problems. the people in falmouth have suffered enough! its time for towns to be held responsible for not doing their due diligence.



March 23, 2011
Massachusetts

Residents sue town over municipal wind turbine

By Aaron Gouveia, Cape Cod Times, www.capecodonline.com 23 March 2011

FALMOUTH — Neighbors of the controversial municipal wind turbine off Blacksmith Shop Road are suing the town.

Six West Falmouth residents filed the lawsuit Monday in Barnstable Superior Court. In the suit, they ask a judge to reverse a vote last month by the Falmouth Zoning Board of Appeals, which upheld the town's decision to exempt itself from the special permit process before erecting the municipal wind turbine known as Wind I.

The residents also are asking the court for a cease-and-desist order, which would shut the turbine down until the conclusion of the special permit process.

"We're adamant about the special permit because there needs to be some place where everything is in writing," said Todd Drummey, one of the plaintiffs.

Heather Harper, Falmouth's acting town manager, said the lawsuit was expected. But she said "the town is hopeful it will be able to provide some structure for dispute resolution."

This is the latest chapter of a saga that began last year after the turbine became operational and neighbors began complaining about noise, shadow flicker and adverse health effects.

In December, Neil and Elizabeth Andersen — who live about 1,300 feet from the turbine — approached the ZBA seeking to overturn Building Commissioner Eladio Gore's approval of the wind turbine.

Gore exempted the town from a special permit based on a local zoning bylaw, which states the town can bypass the special permit process for "all municipal uses."

But Christopher Senie, an attorney representing 18 neighbors opposed to Wind I, wants the town to follow a contradictory zoning bylaw, which mandates a special permit specifically for windmills.

On Feb. 17, three members of the zoning board found Gore made a mistake. But one member, Ronald Erickson, dissented. He said the town entrusted Gore as head of the building department and "right or wrong, whether you like it or not, he made the decision."

Because two zoning board members recused themselves, a unanimous 4-0 vote was required, so the appeal failed and Gore's decision was upheld.