

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

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MATTHEW DeANGELIS,)	
<i>Plaintiff</i>)	
)	
VS.)	CIVIL ACTION NO. 3:06CV01877 (SRU)
)	
TOWN OF NEWTOWN ET AL.,)	JANUARY 24, 2007
<i>Defendants</i>)	
-----X		

**MOTION TO DISMISS COMPLAINT AND MOTION FOR SUMMARY JUDGMENT
OF DEFENDANTS TOWN OF NEWTOWN, HERBERT ROSENTHAL, WILLIAM A.
BRIMMER, JR., JOSEPH H. BOJNOWSKI, AMY DENT, ROBERT GECKLE, JOHN
REED, MOIRA RODGERS, DONALD STUDLEY AND WALTER MOTYKA**

The Town of Newtown, Herbert Rosenthal, William A. Brimmer, Jr., Joseph H. Bojnowski, Amy Dent, Robert Geckle, John Reed, Moira Rodgers, Donald Studley and Walter Motyka (collectively “Defendants”) submit this motion to dismiss under Fed. R. Civ. P.12(b)(1) and 12(b)(6) and this motion for summary judgment under Fed. R. Civ. P. 56(b) because: (1) this court lacks subject matter jurisdiction over a challenge to the master plan of development for the Fairfield Hills property; (2) Mathew DeAngelis (“Plaintiff”) has failed to state a claim upon which relief may be granted; and (3) even if Plaintiff states a claim upon which relief can be

ORAL ARGUMENT REQUESTED

granted, there is no genuine issue as to any material fact and Defendants are entitled to judgment as a matter of law.

In a nutshell, Plaintiff, a resident of the Town of Newtown, is unhappy with the development plans for a certain Town – owned property known as Fairfield Hills, and is improperly seeking to have this Court review the Town’s development plan and expenditures in connection with the Fairfield Hills property under the guise of 42 U.S.C. § 1983. In the first instance, this Court lacks subject matter jurisdiction to hear Plaintiff’s gripes with the master plan of development. However, even if it did, the claims made do not constitute a violation of § 1983, and, therefore, the complaint fails to state a claim upon which relief may be granted. Finally, based on the Affidavit of First Selectman Herbert Rosenthal, Defendants are entitled to

summary judgment because the Town diligently followed the procedures required by the Town Charter, and applicable regulations, ordinances and statutes.

THE DEFENDANTS,
TOWN OF NEWTOWN, HERBERT ROSENTHAL,
WILLIAM A. BRIMMER, JR., JOSEPH H.
BOJNOWSKI, AMY DENT, ROBERT GECKLE, JOHN
REED, MOIRA RODGERS, DONALD STUDLEY AND
WALTER MOTYKA

By /s/ Adam J. Blank _____

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CERTIFICATION

I hereby certify that on January 24, 2007, a copy of the foregoing Motion to Dismiss and Motion for Summary Judgment was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

/s/ Adam J. Blank _____
Adam J. Blank