

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

DOROTHY McDONOUGH, et al

vs.

CRANSTON SCHOOL
COMMITTEE

DECISION

June 2, 1988

This matter was heard on March 10, 1988 upon the appeal to the Commissioner of Education under the provision of §16-39-2 of the General Laws of Rhode Island. Mrs. Dorothy McDonough, and others, made the appeal from a decision of the Cranston School Committee.

Issue of the Case

Did the School Committee have good cause when on January 6, 1988, it voted to ratify the following resolution?

No. 88-1-1 - RESOLVED, That pursuant to Rhode Island General Laws, Section 16-2-15, that the Cranston School Committee for good cause shown does, hereby, abandon and transfer custody, control, and maintenance to the City of Cranston the following described athletic fields and recreational facilities, absolutely and forever, located at the following named schools:

Cranston High School West
Garden City Elementary School
Park View Junior High School
Western Hills Junior High School

This Resolution shall take effect immediately upon passage, and the City Solicitor's Office of the City of Cranston is hereby directed to prepare such documentation as shall be necessary to accomplish the intent of this Resolution.

The passage of the within Resolution shall have the effect of vacating the earlier Resolution of the Cranston School Committee No. 87-11-21.

Facts in the Case

1. The School Committee voted on January 6, 1988 to approve Resolution No. 88-1-1.
2. The fields in question are in poor condition.
3. The matter was published and heard by the Committee prior to its vote.

Applicable Law

16-2-2. Town schools required - School year - Location. - Except as herein otherwise specifically provided, every town shall establish and maintain for at least one hundred eighty (180) days annually exclusive of holidays a sufficient number of schools in convenient places under the control and management of the school committee and under the supervision of the board of regents for education.

16-2-15. Location of schools - Control of Property. - The school committee shall locate all schoolhouses, and shall not abandon, close or change the location of any without good cause; and unless otherwise provided by law, said school committee of each town shall have the care and control of all public school buildings and other public school property of the town, including repairs of said buildings and the purchase of furniture and other school equipment.

The school committee of any town may provide public school housing for the town by lease of buildings or portions thereof, furniture and other school equipment, subject to the following provisions:

(a) During the period or periods to which such lease applies the property so leased shall be public school property of the town in all respects to the same effect as any public school building of the town;

(b) Such lease shall provide for use and occupancy of periods at least the same as or equivalent to the periods during which public school buildings of the town are used and occupied;

(c) As applied to rooms for instruction such lease shall provide for exclusive use and occupancy during the periods thereof and may provide for common or concurrent use and occupancy of other areas of the property;

(d) The use and occupancy under such lease may be for purpose of instruction at particular grade levels or in particular courses of study and may provide for consecutive use and occupancy of specified areas of the property provided that total use and occupancy under such lease complies with the provisions of subparagraph (b) hereof.

16-2-18. Selection of teachers and superintendent - General Control of schools-Expenses. . . . and the entire care, control, and management of all the public school interests of the several towns, shall be vested in the school committee of the several towns, and they shall also draw all orders for the payment of their expenses; provided, however, that such expenses shall not in any fiscal year exceed

the total of all revenue appropriated by the state or town or otherwise for the public schools under the care, control and management of the school committee. If in any fiscal year a school committee is notified that estimated expenses may exceed total available appropriations, the school committee shall adopt and implement a plan to maintain a balanced school budget, which plan shall provide for continuous regular public school operations consistent with the requirements of §16-2-2; provided further, however, that in no fiscal year shall a deficit be permitted for school operations. (Emphasis added).

16-2-15. Distribution of powers in Providence and Cranston. - In the cities of Providence and Cranston the school committee of each of said cities shall hereafter employ the superintendent and teachers, have charge and custody of all school buildings and school property, manage and regulate the schools, and draw all orders for the payment of their expenses from the money appropriated by the city council for the support of public schools; provided, however, that the city council of each of said cities shall have the expenditure of all sums appropriated for the purchase of land for school purposes or for the improvement of the same or for the construction or repair of school buildings.

Position of the Parties

1. The appellants question the School Committee's decision to give up care, custody and control of four (4) athletic fields in Cranston which have been managed by the school department. The plaintiffs question ". . . whether there is just cause to do so."

The plaintiffs further argue the issue of abandonment since the schools will still use the fields for regular instruction and extra curricular activities.

The plaintiffs also question ". . . whether the school committee was negligent in the fact that they did not go after the funding or provide funding for those athletic fields and recreation areas."

2. The defendants, the Cranston School Committee, contend ". . . that the fields under the care, custody and control of the Cranston School Committee are in dire need of upgrading and repair. The School Department does not have the money to do this. The City of Cranston, on the other hand, does and the City of Cranston does have the money and the wherewithall based on the most recent referendum that passed in, I believe, 1987 dealing with the Open Space Referendum, so called, and with that we are able to generate the money that's necessary to pull off these renovations."

Conclusion

The School Committee acted within the framework of the law when it voted on January 6, 1988 to transfer the custody, control and maintenance of four athletic fields to the City of Cranston.

The plaintiffs' argument revolves around three points; i.e. (1) sufficient just cause existing to give up care, custody and control of schools, etc.; (2) the fact of abandonment; and, (3) the effort of the school committee to secure funding for the fields.

The first point is "just cause." The School Committee did act on this item at two different meetings. No allegation of covert or devious action has been made by the plaintiffs. All agendas were noticed properly, comments were received, discussion was held by the Committee and votes taken.

The plaintiffs argue that alternatives were not considered but offered no evidence that the issue was not researched, discussed, options considered,

etc. which would show the Committee to be negligent. Uncontroverted testimony was offered, however, which illustrated that the Committee knew the fields needed repair, had researched several alternatives to action with the City, could not allocate a priority to this within its budget, and, when offered a way to accomplish the needed repair, took the offer. In the instant case, it is evident that the majority of the School Committee felt that the lack of funds in the current budget, and the Committee's inability in the near future to secure such funds were "just cause." Since the definition of cause legally is "a ground for action" and the definition of just is "a conforming to the truth of things - well founded," this hearing officer finds that the majority of the School Committee did act within the frame of law in establishing just cause. In a society such as ours the debate establishing degree could continue forever. Elected officials vote to establish the degree.

In terms of abandonment there is a question by the plaintiffs that since the schools are going to continue to use the fields for instruction and extra-curricular activities, the idea of abandonment is not fulfilled. On the surface this appears to be true, if one limits the definition of meaning which this hearing officer believes pertains; i.e., to give up with the intent of never again claiming one's rights or interests in.

Uncontroverted evidence was given by the School Committee that the agreement between the Committee and the City gives the school "priority use of the property." This indicates to this hearing officer that the School Committee has obtained a first position use

of the fields and has only given up its right of user in the land and the responsibility to maintain the grounds in a safe usable condition asserting that it will not seek to regain its rights to control the land at some future date.

The last point raised by the plaintiffs dealt with the adequacy of the Committee's effort to obtain funds for the project. The very point of the Committee's action was to secure funding to repair the fields and secure their maintenance and future use for the pupils of the Cranston school system. The plaintiffs argument fails on its face.

In fact, a careful reading of the law cited in this case shows the inter-relatedness of the Committee action. Whether by accident or design is not relevant - - what happened and results from the action is what is real and must be judged.

§16-2-2 requires that school committees have a school year of 180 days and a sufficient number of schools in convenient places under the control and management of the school committee. This the Committee is doing.

§16-2-15 requires school committees to locate schoolhouses and have the care and control of all public school buildings and other public school property of the city, including repairs of said buildings, etc. The Committee does this, but has decided that it had "good cause" to transfer some property back to the City. This section of the law further provides for "leasing" of buildings, etc. by school committees. The School Committee has by its action, in effect, secured a "lease" to

use City athletic fields for school purposes. This is not new in Cranston. Since uncontroverted testimony was given that City facilities have been used by the School Department in the past (Cranston Stadium) and will continue to be used, we find the Committee action to be within the law.

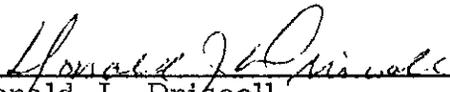
§16-2-18 provides for general control of the schools but provides that the committee cannot ". . . in any fiscal year exceed the total of all revenue appropriated by the state or town or otherwise for the public schools. . .". The law directs the committee to adopt a plan to assure a balanced school budget which provides consistency with the requirements of §16-2-2.

Since no evidence was introduced by the plaintiffs that the School Committee would not meet §16-2-2; i. e., conduct school for 180 days in sufficient schoolhouses". . . under the control and management of the school committee and under the supervision of the board of regents for education.", the finding is for the School Committee.

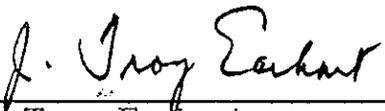
The appeal is denied. The hearing officer notes, however, that the appellants were within their rights to seek a review of their concerns about the action taken. However, one must recognize that in a system of representative government, discussion and vote in conformity to law, is central to action.

The School Committee and the City of Cranston may have reached an agreement which benefits the community at large; then again,

such may not be the case. This case, however, was about the majority action of the School Committee conforming to law - it did; therefore, it prevails.



Donald J. Driscoll
Hearing Officer

Approved: 

J. Troy Earhart
Commissioner of Education

June 2, 1988