

Introduction

This matter concerns approximately 50 appeals from the Coventry School Committee's August 24, 1993 decision not to reinstate bus service which had been eliminated for certain students of the Hopkins Hill Elementary School in June and July 1993.¹

As discussed below, we issue an interim order directing that bus service be restored to the students pending a decision in this matter.

Background

Hopkins Hill Elementary School houses grades kindergarten through 6.

During the 1992-1993 school year, most of the schoolchildren living in the residential area immediately surrounding the Hopkins Hill School walked to school. The other students residing in the Hopkins Hill attendance zone received bus transportation to school.

In October 1992 the School Committee began to consider ways in which to improve the operation and efficiency of the district's K-12 transportation program. The record shows that a specific problem under consideration involved the timely arrival and departure of students by bus at two other elementary schools. The School Committee was assisted in this endeavor by a transportation monitoring team, which had conducted a study of the district's

1 These appeals were assigned to the undersigned hearing officer and heard on September 3, 1993 at the Coventry school administration building. Following the hearing, a viewing of the area in which bus service has been eliminated was conducted.

transportation program. According to the minutes of the School Committee meeting of October 13, 1992, the team

prepared a list of recommendations for School Committee consideration which include:

1. Consolidation of bus routes using existing walking distances to assist in consolidation.
2. Changing of school bell times to allow more running time between release time.
3. Enforcing current walking policy to allow buses to be used at other schools where needed.
4. Redistricting of the School System in order to align schools back to neighborhood schools.
5. Adding buses to the contract only if load sizes and school enrollments facilitate the action.
(School Committee Exhibit 1).

The School Committee directed that options 1 and 2 be analyzed and their impact assessed. This was done by the team and the superintendent over the next several months. At its June 14, 1993 meeting the School Committee decided that it could avoid the need to change the time of the school day at the two elementary schools by consolidating some bus runs through the elimination of bus service in the area where Appellants live. The school district notified the affected parents of the elimination of bus service in letters dated July 6 and July 30, 1993. The letters stated in part that

As a consequence of this action your child will be designated as a walker and beginning with the 1993/1994 school year shall be required to walk

2 The team consisted of parents, the superintendent's liaison for transportation, bus company representatives, and a member of the School Committee. In addition, the superintendent and the chairman of the School Committee were ex officio members of the team.

to the Hopkins Hill School. (Joint Exhibits 3 and 4).

The School Committee reconsidered the elimination of Hopkins Hill School bus routes at its August 24, 1993 meeting. The matter was discussed for one and a half to two hours, with parents expressing numerous safety concerns. The superintendent and the chief of police responded to these concerns and assured the parents that certain safety measures would be taken. The School Committee voted not to reinstate the bus service at issue. It also voted to request the police department to provide a second crossing guard location on Hopkins Hill Road, and to request the department of public works to install stop signs where appropriate in an area immediately west of Hopkins Hill Road.

Subsequent to the August 24, 1993 School Committee meeting, the school district restored bus service to Hopkins Hill School for kindergarten students residing in the area at issue herein. Bus service has not been reinstated for students attending grades 1 through 6 at the Hopkins Hill School.

The transportation policy of the Coventry school district provides in pertinent part that

Resident pupils attending the Public or Parochial Schools of Coventry will be transported to their respective schools by school buses if they live beyond the following school limits as determined by the shortest safe walking distance on highway to the entrance of the resident property:

Elementary - Grades K-6 -- 1 mile
Secondary - Grades 7-12 -- 2 miles

Exception: A pupil, because of physical handicap, may be permitted to ride on the school bus provided that written request is received from the physician attending the pupil.

All bus runs shall be planned with student safety as its primary objective. Any major changes in the routing of buses shall be brought to the attention of the affected students/parents at least five (5) school days prior to expected date of implementation of new routing, except under extenuating circumstances when a shorter notice may be used. (Joint Exhibit 1).

The school district's transportation policy was last revised on August 30, 1988.

Rhode Island General Law 16-21-1 states that

The school committee of any town shall provide suitable transportation to and from school for pupils attending public and private schools of elementary and high school grades . . . who reside so far from the public or private school which the pupil attends as to make the pupil's regular attendance at school impractical and for any pupil whose regular attendance would otherwise be impracticable on account of physical disability or infirmity.

Standard 32(a) of the school transportation topic of the basic education program incorporates R.I.G.L. 16-21-1 and provides the following "indicator" of how this requirement may be met:

Bus routes and schedules indicate busing is provided for pupils residing beyond minimum busing distances established by the school committees and/or for purposes of their health and safety, such as lack of sidewalks, conditions of roads, busy intersections, lack of traffic signals, designated hazardous areas of the community, physical condition of pupils, etc.

A basic education program review team from the Department of Education visited the Coventry school district in 1990 and found the district's bus transportation policy to be in compliance with Topic 32(a) of the basic education program.

The bus routes which were eliminated for students in grades 1 through 6 at the Hopkins Hill School were located in an area to the

west of Hopkins Hill Road and in an area south of Tiogue Avenue and east of Hopkins Hill Road.

Hopkins Hill School is located on Johnson Boulevard, a two-lane road which intersects Hopkins Hill Road to the west of the school. There are no sidewalks on Johnson Boulevard, but it is a wide road. Hopkins Hill Road also is a two-lane road. It has sidewalks on both sides, but it carries substantially more traffic than Johnson Boulevard. Hopkins Hill Road intersects at the north with Tiogue Avenue, a main thoroughfare, and runs south, beyond the area in question, to Route 95, where entrances and exits to the highway exist. Part of Hopkins Hill Road in the area in question is posted for 25 miles per hour, and part is posted for 35 miles per hour. Numerous residential side streets connect with Hopkins Hill Road. There are no traffic signals on Hopkins Hill Road south of Tiogue Avenue in the area in dispute.

Appellants submitted recent data from the state Department of Transportation showing average daily traffic of 6,900 and 5,700 vehicles on Hopkins Hill Road just south of Tiogue Avenue. Evidence was presented regarding traffic summonses and accidents occurring on Hopkins Hill Road. Evidence was also offered regarding an 8:00 a.m. police department shift change which results in an interruption in traffic surveillance when students are walking to the Hopkins Hill School for its 8:20 opening.

Superintendent of Schools Raymond E. Spear testified that the students for whom bus service has been eliminated have less than a one mile walk to school. He described the process by which the School Committee reached its decision in this matter. The

process included the participation of two police department officials: Major Leach, who viewed the area in dispute, and Chief of Police Laliberte, who reviewed the school transportation plan and also inspected the area in dispute.

Superintendent Spear testified that after reviewing the matter and conferring with police officials and parents, he made or will make the following requests of the police department and the department of public works: (1) that the existing crosswalk and crossing guard at the intersection of Hopkins Hill Road and Johnson Boulevard be moved to the north side of Johnson Boulevard; (2) that school-crossing signs be posted near that crosswalk; (3) that a crosswalk and crossing guard be added at the intersection of Hopkins Hill Road and Linwood Drive; (4) that school-crossing signs be posted near that crosswalk; (5) that the 35-mile-per-hour-speed-limit sign on Hopkins Hill Road be moved south in order to extend the 25 mile per hour speed zone throughout the entire area in question; (6) that electronically-controlled traffic speed signs be installed on Hopkins Hill Road; (7) that overgrown brush on certain sidewalks be cleared; (8) that white lines be painted on the side of Johnson Boulevard in order to create a clearly marked walking area for schoolchildren, and (9) that the feasibility of painting similar white lines on Carolynn and Marjorie Streets be explored. In light of these requests, and the approval of the police officials involved, Superintendent Spear testified that the 1993-1994 school transportation plan as it relates to the Hopkins Hill School is safe for area students.

Contentions of the Parties

Appellants contend that given the young age of the elementary students affected by the decision under appeal, and the hazardous conditions that exist on the roads they will be required to travel, it is not practical for them from a safety standpoint to walk to school. In so arguing, Appellants specifically cite the heavy volume of traffic in this area, the frequency of speeding violations and accidents on Hopkins Hill Road, the lack of proper signs on the roads, the absence of sidewalks on many streets, the existence of dangerous walking conditions following snowfalls, and the interruption in police presence on the roads during the morning shift change. Appellants request that bus service be restored pending a decision in this matter, and that the School Committee be ordered to reinstate bus service for all Hopkins Hill School students residing in the area in dispute.

The School Committee contends that its transportation policy is in compliance with the basic education program and that the particular decision under review was made with the benefit of the superintendent's extensive experience and the police department's involvement. The Committee asserts that the children can safely walk to school because of the sidewalks on both sides of Hopkins Hill Road, and the significant width of Johnson Boulevard. It maintains that the crosswalks and crossing guards will permit the children to safely cross Hopkins Hill Road, and that the remaining distance to the school will be traveled on established walking routes. Furthermore, the children in the northern portion of the area in question are not required to cross Hopkins Hill Road.

The Committee contends that the Hopkins Hill School transportation plan is safe, and that the decision of August 24, 1993 not to reinstate the bus service should be affirmed.

Discussion

At the outset of the hearing it was established that several of the Appellants, including Mr. and Mrs. Shearer, do not have children who have been denied bus service for the 1993-1994 school year. Consequently, we find that these Appellants are not aggrieved by the decision of the School Committee at issue herein, and their appeals are dismissed.

In Brown v. Elston, 445 A.2d 279 (1982), the Rhode Island Supreme Court stated that the purpose of R.I.G.L. 16-21-1 "is to encourage school attendance and to protect the health, safety and welfare of the pupil." The Court further stated that

inasmuch as the health, safety and welfare of a child affect the practicality of traveling to and from school, these factors ought to be considered in determining whether or not R.I.G.L. 16-21-1 imposes upon a school committee an obligation to provide bus transportation. Ibid. at 283.

The determination to be made is whether or not it would be impractical in the circumstances of this case for Appellants' children to go back and forth to school on their own.

In assessing the circumstances, we find the primary factors to be considered are the age of the students, the distance to be walked, and the road and traffic conditions on the routes to be walked.

The students involved in this appeal are of a young age in that they attend grades 1 through 6 at the Hopkins Hill Elementary

School.

The distance to be walked to and from school by these students does not exceed one mile.

Area road and traffic conditions vary. Hopkins Hill Road is a heavily traveled road with numerous intersections. It has sidewalks on both sides. A portion of the road in the area in dispute is posted at 35 miles per hour. One crosswalk and crossing guard currently exist in the area in dispute, although the crosswalk is on the wrong side of Johnson Boulevard. There are no traffic signals on Hopkins Hill Road south of Tiogue Avenue.

Johnson Boulevard does not have sidewalks, but it is not heavily traveled and it is wide. The remaining roads are located in residential neighborhoods. They are not congested, and some have sidewalks. Numerous intersections do not have any stop signs, however.

Our review of these factors leads us to the conclusion that it is not practical at this time under existing road and traffic conditions in the disputed area for Appellants' children in grades 1 through 6 to walk to and from Hopkins Hill School. We base this conclusion on the young age of the children, the high volume of traffic on Hopkins Hill Road, the numerous intersections on both sides of Hopkins Hill Road throughout the area in dispute, the lack of traffic signals on Hopkins Hill Road, and the absence of the safety measures (i.e., crosswalks, crossing guards, signs, white lines, and brush removal) requested by the School Committee and the superintendent. We therefore find that the current road

and traffic conditions in the disputed area are too hazardous for Appellants' children to safely walk to and from school.

We further find that it is appropriate to treat this matter as a request for an interim protective order pursuant to R.I.G.L. 16-39-3.2.³ In so finding we rely on the nature of these appeals, Appellants' request that bus service be restored pending a decision, and the school district's intention to implement the safety-related items previously discussed herein. We deem it prudent to refrain from reaching a final conclusion in this matter at this time because the implementation of the safety-related measures may have an effect on the road and traffic conditions in the disputed area. We therefore shall issue an interim order requiring the school district to reinstate bus service to Appellants' children. Upon the implementation of the safety-related items recommended by the School Committee and requested by the superintendent, the hearing in this matter will be reconvened to reexamine the area in question and take additional evidence. We will then issue a decision based on the entire record in this proceeding.

Conclusion

We find, for safety-related reasons, that it is not practical at this time for Appellants' children in grades 1 through 6 to

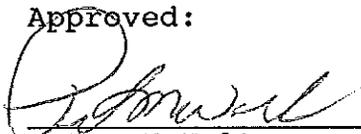
3 R.I.G.L. 16-39-3.2 states that "In all cases concerning children, other than cases arising solely under R.I.G.L. 16-2-17 [suspension of students], the commissioner of elementary and secondary education shall also have the power to issue such interim orders pending a hearing as may be needed to ensure that a child receives education in accordance with applicable state and federal laws and regulations during the pendency of the matter. . . These interim orders shall be enforceable in the superior court at the request of any interested party."

walk to and from Hopkins Hill School. We issue an interim order directing the Coventry School Committee to provide Appellants' children with transportation to and from school until ordered otherwise in this proceeding. Upon the implementation of the safety-related measures recommended by the School Committee and requested by the superintendent, the hearing will be reconvened to reexamine the area in dispute and to take additional evidence. A decision will then be issued based on the entire record in this proceeding.



Paul E. Pontarelli
Hearing Officer

Approved:



Peter McWalters
Commissioner of Education

Date: September 10, 1993

The questions submitted by the parties, and our responses to those questions, are as follows:

School Committee

1. Does this Decision mean that an appellant's first or second grade child living on Hopkins Hill Road must be picked up at their door to avoid walking along Hopkins Hill Road to reach a bus stop or crosswalk?

On pages 6-7 of our decision, we stated that "it is not practical for Appellants' children in the first and second grades to walk along Hopkins Hill Road. We therefore hold that the School Committee must provide transportation to any of Appellants' children in the first or second grade who must walk any distance on Hopkins Hill Road on their way to and from Hopkins Hill School." Consequently, Appellants' first or second grade children cannot walk along Hopkins Hill Road to reach a bus stop or crosswalk. The School Committee must provide transportation to and from the child's residence if the child must otherwise walk along Hopkins Hill Road.

2. Does this Decision prohibit the Coventry Public Schools from requiring appellants' first and second grade child(ren) to walk to school if, to do so, the child(ren) would be expected to walk a distance of as few as 15 feet on a Hopkins Hill Road sidewalk to reach the nearest crosswalk?"

As set forth in #1, the School Committee must provide transportation to any of Appellants' children in the first or second grade who must walk any distance along Hopkins Hill Road. The decision therefore prohibits the Public Schools from requiring Appellants' first and second grade children to walk to school if, to do so, the children must walk any distance along Hopkins Hill Road.

3. Does this Decision give recognition to the fact that, to avoid requiring a child to walk 264 feet on a Hopkins Hill Road sidewalk, the child could, instead thereof, be required to walk 1100 feet on an alternate route, without sidewalk, to reach a crosswalk?

In a proceeding before the Commissioner of Education, a "fact" is established by the introduction of competent evidence into the record. With regard to the scenario presented in this question, we found on pages 5-7 of our decision that it is safe for pedestrians to safely walk in the area in dispute except for Appellants' first and second grade children who must walk along Hopkins Hill Road. These children could therefore be required to walk alternate routes in the area in dispute, provided that they do not walk any distance along Hopkins Hill Road and the alternate routes remain within the school district's permissible walking distances to school.

4. Does this Decision give recognition to the fact that there are first and second grade children walking on Hopkins Hill Road on the East side in compliance with the School District recommended walking route and in fact, walking in some cases further distances than would be required of most living on the West side (appellants' side)?

Again, "facts" are established by the introduction of competent evidence into the record. As for the scenario presented in this question, the walking routes of students who are not parties to this appeal are not dispositive of the question of whether it is practical for Appellants' children to walk to school.

5. Does this Decision recognize that in the name of equity and the use of good judgment, that it would be considered equally unsafe (Commissioner's determination) to expect children to walk on one side of the road but not the other? In fact, does not a decision to totally prohibit walking of first and second graders on the West side spell the same for the East side?

In performing the statutory duty to "decide such controversies as may be appealed to him or her from decisions of local school committees," [R.I.G.L. 16-60-6(9)(h)], the Commissioner of Education rendered a decision in this matter which constitutes his resolution of the particular issues raised by the appeal filed by Appellants. Issues beyond the scope of the appeal herein will be resolved if, and when, an appeal pursuant to R.I.G.L. 16-60-6(9)(h) is filed raising those issues.

6. Does this Decision mean that first and second graders living on or near roads throughout Coventry and the State of Rhode Island, with traffic conditions equal to or greater than those of Hopkins Hill Road, cannot be expected to safely traverse such roadways and thusly, require transportation services?

Decisions of the Commissioner of Education serve as precedent for future cases. Each case is decided on the basis of its particular facts. If precedent is applied correctly, cases with similar facts will have similar results.

Appellants

1. Do the warning lights on the barrels used on Hopkins Hill Road have to be flashing?

The decision states that "barrels with warning lights" are a permissible traffic device. The language "with warning lights" is not superfluous and it is therefore expected that the lights are in operation.

2. Is the hearing officer aware that a 7-year old child, such as the one involved in the Kolc v. Maratta case, can be in the third grade?

The decision classifies Appellants' children by grade level, not age.

The responses set forth above constitute our ruling on the request for clarification.

Paul E. Pontarelli
Paul E. Pontarelli
Hearing Officer

Approved:

Peter McWalters
Peter McWalters
Commissioner of Education

Date: April 6, 1994

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

GLENN AND DEBRA S. , FRANK AND DENISE :
B. , KEVIN AND LESLIE C. ET AL. :
VS. :
COVENTRY SCHOOL COMMITTEE :

DECISION

Held: School Committee must provide transportation to Appellant's children in first and second grades who must walk along Hopkins Hill Road on their way to or from Hopkins Hill Elementary School.

DATE: November 2, 1993

Background

This matter was originally heard on September 3, 1993. On September 10, 1993 we issued an interim order directing the School Committee to restore transportation to Appellants' children pending the Committee's implementation of a number of safety-related measures. The hearing resumed on September 24, 1993, at which time additional evidence was taken concerning the implementation of the safety-related measures and the existing road and traffic conditions in the area.

Superintendent of Schools Raymond E. Spear testified that, as of September 24, 1993, all but two of the safety-related measures had been implemented. The two exceptions concerned the electronically-controlled speed limit signs on Hopkins Hill Road and the installation of stop signs at appropriate intersections throughout the area. Mr. Spear testified that, pending the outcome of this proceeding, barrels with warning lights had been placed on Hopkins Hill Road as an alternative to the expensive electronically-controlled signs. He also stated that the stop signs were on order and would be installed upon their delivery. The subsequent installation of the stop signs was confirmed by Mr. Spear in his letter of September 29, 1993.

Appellants questioned the appropriateness of the barrels on Hopkins Hill Road. They also challenged the type and location of crosswalk warning signs posted on Hopkins Hill Road.

Mr. Paul R. Annarummo of the Rhode Island Department of Transportation testified at the September 24th hearing. Mr. Annarummo, who is the managing engineer of the Department's

traffic engineering and data management, was appointed as an expert witness in this matter. He was asked to view Hopkins Hill Road and Johnson Boulevard and to render his opinion at the hearing with regard to the safety of pedestrians walking along and crossing these roads. (Hearing Officer's Exhibit 1).

Mr. Annarummo's testimony at the hearing addressed the speed limits, crosswalk locations, sign postings, and general road and traffic conditions on Hopkins Hill Road and Johnson Boulevard. Although Hopkins Hill Road and Johnson Boulevard are town roads, and therefore not subject to the state Department of Transportation's jurisdiction, Mr. Annarummo reviewed these those roads in light of well-established traffic control policies and guidelines.

Mr. Annarummo's observations included the following:

(1) The 25 mile-per-hour speed limit in effect for the section of Hopkins Hill Road in dispute is appropriate and adequately posted;

(2) the crosswalk at Hopkins Hill Road and Johnson Boulevard is located in an appropriate place and it has the necessary warning signs posted in proper locations;

(3) the crosswalk at Hopkins Hill Road and Linwood Avenue is located in an appropriate place, but there are insufficient and improperly placed warning signs;

(4) the barrels with warning lights are a permissible interim traffic device which, in conjunction with the existing warning signs, provide adequate notice of the Hopkins Hill Road-Linwood Avenue crosswalk;

(5) the installation of electronically-controlled speed signs

on Hopkins Hill Road would be useful and preferable to the barrels with warning lights;

(6) Hopkins Hill Road directly connects with Route 95 and is located in an area in which several major businesses have been added in recent years;

(7) traffic on Hopkins Hill Road is fairly heavy and travels in excess of the posted speed limit;

(8) Hopkins Hill Road has wide sidewalks;

(9) there are no speed limit signs posted on the section of Johnson Boulevard in dispute, but the prima facie speed limit of 25 miles per hour is appropriate for the road given its residential nature;

(10) it would be appropriate to post speed-limit signs on Johnson Boulevard;

(11) the crosswalk on Johnson Boulevard west of Hopkins Hill School is located in an appropriate place, but it is not marked with the normally-recommended warning signs;

(12) Johnson Boulevard has sidewalks;¹ and

(13) the white lines painted on the sides of Johnson Boulevard provide adequate walking area for pedestrians.

With regard to pedestrian use of Hopkins Hill Road and Johnson Boulevard, Mr. Annarummo concluded that "the roadways are designed and the traffic control devices are placed such that pedestrian

1 On page 5 of our interim order we stated that "there are no sidewalks on Johnson Boulevard . . ." We correct that statement by noting that the north side of Johnson Boulevard has an asphalt sidewalk for several blocks, followed by a "grass sidewalk," as that term was used by Mr. Annarummo.

activities can be conducted in a safe manner." (9/24/93 transcript, p. 110).

Mr. Annarummo further testified that the term "pedestrian" refers to any person walking along the side of the road. He explained that, in applying his professional expertise, he cannot make distinctions based on the age of the pedestrians nor can he predict the patterns of pedestrian behavior. Mr. Annarummo stated that a traffic control design can create safe conditions for pedestrians, but pedestrian safety cannot be guaranteed if the pedestrian behaves erratically while walking along or crossing the street.

Positions of the Parties

The parties' contentions were fully set forth in our interim order. Briefly, Appellants contend that the young age of their children and the hazards they will encounter while walking on the roads in question require that they be provided transportation to school. The hazards alleged by Appellants include the volume and speed of traffic on Hopkins Hill Road, the location of the Hopkins Hill-Linwood Avenue crosswalk, the walking areas on Johnson Boulevard, snow on sidewalks, and the absence of police patrols shortly before and after 8:00 a.m. due to a shift change. The School Committee asserts that the safety of Appellants' children was fully considered throughout the process by which it arrived at its decision herein, and that the record evidence regarding area road and traffic conditions confirms that these students can safely walk to Hopkins Hill School.

Discussion

Consistent with the testimony of Mr. Annarummo, we find that the road conditions and traffic control devices in the area in dispute make it possible for pedestrians to safely walk to Hopkins Hill Elementary School. Given Mr. Annarummo's testimony concerning his use of the term "pedestrian," we base this finding on the premise that the pedestrians have the maturity and judgment which will enable them to recognize and comply with the traffic control devices which provide for their safety.

We realize, however, that this appeal involves children attending grades 1 through 6. We believe that there are substantial differences in the maturity and judgment of these children depending upon their ages. We find, based on the hearing officer's viewing of this area on 3 separate occasions and the testimony of Mr. Annarummo, that the volume and speed of vehicular traffic on Hopkins Hill Road pose a serious danger to any child who fails to exercise the maturity and judgment needed to safely walk along that road.

Hopkins Hill Road is a direct link to Route 95 for traffic entering and leaving the Coventry-West Greenwich area. It is a means of travel to and from numerous commercial establishments on Tiogue Avenue and several major businesses in the area. It is not uncommon for traffic on Hopkins Hill Road to exceed the speed limit. In light of these facts, it is our belief that children in the first and second grades do not possess the maturity and judgment to walk along this type of road unattended. Given the

² The Rhode Island Supreme Court has recognized that the age and
(continued on next page)

nature of the traffic on Hopkins Hill Road and the potential risk of serious harm to any child who may absentmindedly wander or impulsively run into that traffic, we find that it is not practical for Appellants' children in the first and second grades to walk along Hopkins Hill Road. We therefore hold that the

2 (continued) sophistication of children must be taken into account when determining the duty of care owed to them. In Haddad v. First National Stores, 109 R.I. 59, 280 A.2d 93 (1971), the Court made the following statement during its discussion of a landowner's duty of care to a trespassing child:

. . . the acts of a child are not to be measured by the same standard that is employed when judging the acts of an adult. The degree of care to be exercised by children of tender years, we have said, is that degree of care which children of the same age, education and experience would be expected to exercise in similar circumstances. (citations omitted).

Recently, in Kolc v. Maratta, 108 R.I. 623, 278 A.2d 410, we ruled that it was error to give a jury the charge on sudden emergency. In Kolc, the defendant motorist was approaching a group of young school children who were standing on the sidewalk under the supervision of a crossing guard as they waited to cross the highway. The seven-year-old plaintiff ran onto the roadway and collided with the defendant's automobile. We said that it was a jury question as to whether a reasonably prudent person should have perceived the likelihood of a child darting across the street.

Although it is unreasonable to require a landowner to provide for the safety of an unwanted intruder when that intruder is a child, such a fact justifies a closer look at the respective rights of the landowner and those of the young trespasser. A young child cannot, because of his immaturity and lack of judgment, be deemed to be able to perceive all the dangers he might encounter as he trespasses on the land of others. There must and should be an accommodation between the landowner's unrestricted right to use of his land and society's interest in the protection of the life and limb of its young. When these respective social-economic interests are placed on the scale, the public's concern for a youth's safety far outweighs the owner's desire to utilize his land as he sees fit. Ibid. at pp. 63-64.

We find that the concerns expressed by the Court in Haddad are equally applicable here.

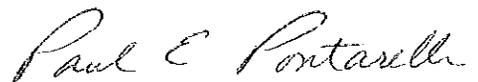
School Committee must provide transportation to any of Appellants' children in the first or second grade who must walk any distance on Hopkins Hill Road on their way to and from Hopkins Hill School.

We also hold, based on Mr. Annarummo's testimony, that the safety of Appellants' children who walk to school requires that the School Committee take prompt action to add and relocate warning signs at the Hopkins Hill Road-Linwood Avenue crosswalk, install electronically-controlled speed limit signs on Hopkins Hill Road, and post speed limit and crosswalk warning signs on Johnson Boulevard.

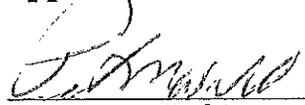
Conclusion

The appeals are sustained to the extent that the School Committee must provide transportation to Appellants' children in the first or second grade who have to walk any distance along Hopkins Hill Road on their way to or from Hopkins Hill Elementary School. The School Committee also must make arrangements with appropriate town and state officials to install and relocate, where necessary, speed limit and crosswalk warning signs on Hopkins Hill Road and Johnson Boulevard as discussed above.

The appeals are denied in all other respects.


Paul E. Pontarelli
Hearing Officer

Approved:


Peter McWalters
Commissioner of Education

Date: November 2, 1993