

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

IN RE: CHARIHO REGIONAL SCHOOL
DISTRICT FUNDING FOR 1995-96 FISCAL YEAR

DECISION ON MOTION TO INTERVENE BY
ROSS BEIL AND VOTERS RIGHTS DEFENSE

Held: Motion to intervene is denied.

Decision

The Chariho Regional School Committee has appealed to the Commissioner under R.I.G.L. 16-39-1 for hearing on a matter of dispute relating to additional funding it alleges is required for school district operation during fiscal year 1995-96. At a regional school district financial meeting held on March 25, 1995 voters approved a school budget which the committee alleges is substantially less than the amount necessary to operate the school district in conformity with state and federal requirements, and to meet its contractual obligations for the upcoming year.

The towns of Charlestown, Richmond and Hopkinton were notified of the committee's appeal and a threshold issue has been raised as to the standing of a Hopkinton resident and taxpayer, Mr. Ross Beil, and Voters Rights Defense, a nonprofit corporation organized under Rhode Island General Laws to intervene and participate in the adjudication of this matter. Mr. Beil and Voters Rights Defense, through counsel, have filed a Motion to Intervene and objection has been made to their proposed intervention in these proceedings.

It is our opinion that the parties respondent in an appeal of this nature are the three towns which comprise the Chariho Regional School District. It is the towns comprising the school district which have the legal responsibility to fund, through the appropriating authority or otherwise as provided by R.I.G.L. 45-15-7, any final judgment that may result from proceedings under R.I.G.L. 16-39-1. As stated by our Supreme Court in Exeter-West Greenwich R.S.D. v. Teachers' Ass'n, 489 A.2d 1010, 1021 (R.I. 1985) any such judgment constitutes a debt against the towns, in that case the towns of Exeter and West Greenwich.

The interest of the respondent towns in the case before us are separate and distinct from any individual interests of town residents, taxpayers and taxpayer associations. In Rhode Island, the inhabitants of every town are a body corporate,

and may, in their corporate name, sue and be sued, prosecute and defend, in any court and elsewhere. (G.L. 45-15-1). It is the legal rights and responsibility of the town council of each town to have full power to manage the affairs and interests of the town, and to determine all matters and things as shall by law come within their jurisdiction. 45-5-1. They are charged to protect the public interest.

In the upcoming hearings, the towns of Charlestown, Richmond and Hopkinton, through their duly-appointed representatives will undoubtedly take certain positions and make certain arguments with respect to issue with which the Commissioner must, by statute, be involved and make findings. These positions and arguments may or may not be those which would be taken or advanced by individual taxpayers. However, since the ultimate decision, and any resulting final, enforceable judgment operates against the towns, and not individual taxpayers, it is the towns which have the prerogative to take the position, and make the arguments that they deem in the public interest, although not necessarily consistent with any one taxpayer, resident or other group of individuals' positions.

We read Rule 24 of the Superior Court Rules of Civil Procedure to be consistent with this concept when it permits intervention:

... (2) when the representation of the applicant's interest by existing parties is or may be inadequate and the applicant is or may be bound by a judgment in the action ... (emphasis added)

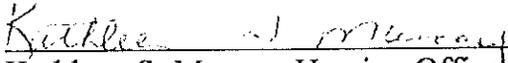
It is also consistent with our Supreme Court's ruling in West Warwick School Committee v. Souliere, 626 A.2d 1280 (1993). The Court in Souliere agreed that the intervenors (a group of taxpayers represented by a nonprofit corporation) had no standing since their interest as taxpayers gave rise to no personal stake beyond that shared by all other members of the public at large or the taxpayers of the town.

This ruling is not inconsistent with the Commissioner's ruling in Newport Taxpayers' Assoc. Inc. et. al. v. Newport School Committee, March 21, 1983. In that case, the issue involved a taxpayers' standing to challenge acts of municipal corporations or local school committees when it was alleged that the corporation or school committee acted illegally and that as a result local taxes may be increased. This decision notes that taxpayers may well lack standing when the issue involves a contract dispute. Citing Bosworth v. Norman, 14 R.I. 521 the decision notes:

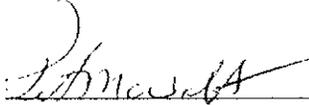
the complainant is not a party to the contract. He is merely a citizen and elector in the town which is a party to it. We do not see how his being a citizen and elector given him a right to sue ...

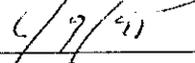
The towns' interests on the issue of their respective liability to the regional school committee for any additional funds for fiscal year 1995-1996 will, we are confident, be adequately represented by their town solicitors.

The motion to intervene is denied.


Kathleen S. Murray, Hearing Officer

Approved:


Peter McWalters, Commissioner


Date