

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF  
EDUCATION

.....

**Bristol-Warren Save Our Schools**

v.

**Bristol-Warren Regional School Committee**

.....

**DECISION**  
**ON**  
**MOTION TO DISMISS**

Held: The petition of Save Our Schools does not identify facts which would confer standing on the organization. Supplementary material does state facts sufficient to confer standing; however, subsequent notice of individual parent appeals has also been provided. The petition of Save Our Schools should be dismissed without prejudice, since the remaining members of the organization have not demonstrated that they include a person or persons aggrieved by the Committee's decision.

DATE: June 9, 2004

## **Travel of the Case**

On March 19, 2004 Commissioner Peter McWalters received a petition seeking review of the Bristol-Warren Regional School Committee's plans to move forward with school construction. Save Our Schools, an organization formed in connection with the Committee's school construction plans, alleged that the School Committee had violated its statutory responsibilities and policies, ignored the historical value of a number of school buildings, and arbitrarily rejected the alternative plan developed by Save Our Schools, instead adopting a more costly, ill-conceived plan to meet the elementary facility needs of the district. Additional specific violations of law were also contained in the petition.

After initial questions regarding the standing of Save Our Schools was raised in correspondence from counsel for the School Committee, Save Our Schools submitted a letter detailing additional facts relevant to the issue of standing on March 30, 2004. Thereafter, the issue of standing was formally raised by the Bristol-Warren Regional School Committee in a Motion to Dismiss which was submitted on April 6, 2004. An objection, and Memorandum in Support Thereof were filed by Save Our Schools on May 7, 2004. Thereafter, the School Committee made its request that the Motion to Dismiss be decided prior to any hearing on the merits, since, among other reasons, hearing on the merits in this matter was estimated to be quite lengthy. Both parties submitted reply memoranda, a process completed on May 26, 2004.

After review of the pleadings submitted by the parties, the undersigned hearing officer, designated by Commissioner McWalters to hear and decide this appeal, decided to rule on the Motion to Dismiss as a preliminary matter. Counsel were notified of this on June 1, 2004.

## **DECISION**

Although it is more traditional that rulings on a Motion to Dismiss will be consolidated with a decision on the merits in appeals to the Commissioner, it has happened, hopefully when appropriate and expeditious, that a separate ruling is issued. Given the substantial issues with respect to the standing of Save Our Schools that exist at this time and the unclear status of individual parent appeals attached to the pleadings, the issue of standing is best addressed separately and prior to embarking on legal proceedings which both parties anticipate will be lengthy and costly.

Even though "Save Our Schools" is apparently an unincorporated association, our rules of pleading are sufficiently flexible to enable the organization to appeal if at least some of its members are shown to have standing. The assertion that "most, if not all, group members are taxpayers in the towns of Bristol and Warren" (letter of March 30, 2004) does not support the legal standing of Save Our Schools, especially in light of the recent ruling in Meyer v. City of Newport, 2004 WL 574432 (2004). See also West Warwick School Committee v. Souliere, 626 A.2d 1280 (R.I. 1993). Similarly, the

assertion that Save Our Schools' members have incurred an "injury" beyond a grievance common to all members of the community does not confer standing on the group. The group's interest in school construction is not a legally protectible interest. Although members of Save Our Schools are committed to an alternative plan for school construction and members may have devoted a great deal of time and resources to this endeavor, the rejection of their alternative plan is not an "injury" in the legal sense. Their status as interested parties<sup>1</sup> is not coextensive with that of persons legally aggrieved by the School Committee's actions.

Save Our Schools argues that the allegations contained in its petition are serious, and such that the Commissioner should waive the standing requirement to exercise his general oversight responsibility over school construction issues. This argument is not persuasive. Any specific violations of education law asserted by the group can certainly be referred to the Commissioner for investigation. Enforcement of education laws is a statutory duty of the Commissioner that need not be conducted in proceedings to adjudicate educational disputes.<sup>2</sup> The broad authority conferred on the Commissioner to adjudicate disputes under R.I.G.L. 16-39-1 and 16-39-2, the formalities of the hearing process, and its attendant cost justify the restriction of such process to disputes brought by "persons aggrieved".

Certainly allegations of excessive cost of the project, harm to the quality of life in the towns of Bristol and Warren, as well as the benefits of alternative plans are all important issues. The focus of these issues is primarily local, however. Thus we find that the eventual approval or disapproval of the proposed school construction project by the voters of the regional school district will provide a local determination of the public interest. We do not accept the argument that in this case the presence of these important issues of public interest warrants an exception to the requirement that appeals to the Commissioner be taken only by those who are aggrieved by the decision of the School Committee.

It is true that the Commissioner has found standing when the members of an organization bringing an action against a school committee include parents of children who will be adversely affected by the school committee plans. Although the original petition of Save Our Schools dated March 11, 2004 did not indicate that its membership included parents of affected students, the supplemental letter of March 30, 2004 did provide this information. The assertion that such parents are members of Save Our Schools would probably be sufficient to confer standing on the group. See Bradford Save Our School Committee v. Westerly School Committee, decision of the Commissioner dated September 21, 1981.

However in this case, parents whose membership in Save Our Schools would otherwise confer standing have indicated at least an intent to file separate letters of appeal with Commissioner McWalters. See Appendix A of the Petitioner's Memorandum In

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<sup>1</sup> with a right to be heard by the School Committee prior to its decision on the issue of school construction

<sup>2</sup> We recognize that, as a final stage in such enforcement activities a "show cause" hearing is afforded prior to entry of an order or the imposition of sanctions.

Support of Its Objection to Respondent's Motion to Dismiss.<sup>3</sup> The parents' letters of appeal, provided as attachments to the brief of Save Our Schools,<sup>4</sup> allege individualized harm resulting to students. They appear to be separate administrative appeals to the Commissioner seeking to raise issues which are not identical to those which Save Our Schools seeks to raise.

The parent letters include allegations that the decision of the school committee contravenes best educational practices, will create inequality between remaining school buildings and bring about an unnecessarily stressful transition for students. The focus of Save Our Schools petition is on defects in the Request for Approval submitted to the Board of Regents, the excessive cost of the project, and its negative impact on the historical character of Bristol and Warren. Although there is some "overlap," the appeals of the parents and Save Our Schools are not identical. It may be that the parents do not wish to assert individual (and different) appeals at all; however, at this point in the proceedings we can only infer that they wish to do so. Without its parent members, the organization "Save Our Schools" lacks the requisite standing to proceed with its appeal. The appeal of Save Our Schools is dismissed without prejudice, with leave to re-file a petition which addresses the standing requirement.

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Kathleen S. Murray, Hearing Officer

APPROVED:

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Peter McWalters, Commissioner

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June 9, 2004  
Date

<sup>3</sup> We would note that the letters of appeal of the parent members of Save Our Schools are all dated April 20, 2004 but none of these letters has yet been received by the Commissioner's office.

<sup>4</sup> as well as a subsequent communication dated May 17, 2004