

0009-06

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

IN THE MATTER OF THE RESIDENCY OF STUDENT H. DOE

Decision

Held: Student is a resident of North
Providence, not Lincoln.

Date: April 17, 2006

Introduction

This is a request by student Doe's mother for a residency determination.¹

Background

Student Doe is a third-grade student who attends an elementary school in Lincoln. He has attended Lincoln schools since kindergarten. Doe and his mother and her fiancée lived in Lincoln during the 2004-05 school year. In March 2005 his mother's fiancée purchased a three-unit dwelling in Lincoln. Two units of the dwelling are occupied. The third unit is vacant. Doe's family lived with relatives while the fiancée's brother renovated the apartment. The family's possessions were put into storage. According to Doe's mother, the renovations consisted of painting and other work which did not require a building permit.

The family left Lincoln in July 2005 and moved in with the fiancée's parents in Pawtucket. Their possessions remained in storage. Intending to return to Lincoln, Doe's mother enrolled Doe for the 2005-06 school year in the Lincoln elementary school closest to the three-unit dwelling. In November the family took up residence at Doe's grandfather's house in North Providence.

Unfortunately, the fiancée's brother was killed in a motorcycle accident. Renovations on the vacant unit in Lincoln came to a halt. An inspection of the unit by the Lincoln attendance officer in March 2006 showed it to be still vacant. Doe's mother testified that she and Doe have never lived in the unit. Doe, his mother and her fiancée continue to reside in North Providence.

Positions of the Parties

Petitioner contends that she, Doe and her fiancée are homeless. She asks that Doe be allowed to finish the school year at his Lincoln school. She argues that it would be unfair to move Doe this late in the school year. She is not asking Lincoln to provide any transportation services.

¹ The Commissioner of Education designated the undersigned hearing officer to hear and decide the request. A hearing was held on March 13, 2006.

The Lincoln School Committee points out that Doe, his mother and her fiancée have not lived in Lincoln since July 2005. They currently live in North Providence and they are not homeless. Doe was not eligible for enrollment in Lincoln schools for the 2005-06 school year. The Committee therefore contends that Doe is a resident of North Providence for school enrollment purposes.

The North Providence School Committee recognizes that Doe resides in North Providence. It stands ready to educate Doe if he is registered in the North Providence school system.

Discussion

Due to miscommunications between the parties, Doe's mother's request that her son be allowed to finish the school year in Lincoln was not heard by the Lincoln School Committee prior to the hearing in this matter. We held this matter in abeyance for four weeks to allow Doe's family to present their circumstances to the School Committee at its next meeting. Regrettably, Doe's mother was unable to attend the meeting due to illness. Equally regrettably, neither her fiancée nor any other representative of the family attended the meeting to discuss the matter with the School Committee.

This matter is before us under Rhode Island General Law 16-64-6, which authorizes the Commissioner to resolve disputes concerning residency. The statute directs that all parties in interest be heard and that the Commissioner determine the residency of the student. Based on the hearing, we find the following:

Doe's family is not homeless. Doe lives with his mother and her fiancée. His mother's fiancée owns a three-unit dwelling in Lincoln. One unit is vacant. According to the testimony of Doe's mother, the renovations that are needed do not require a building permit. Given this testimony, we are unable to find that the vacant unit is uninhabitable.

Furthermore, the uncontroverted evidence establishes that Doe has not lived in Lincoln since July 2005, and that he has been a resident of North Providence since November 2005. By legal standards, Doe is a resident of North Providence.

This is the extent of our task in this case. There is no decision of the Lincoln School Committee for us to review. Petitioner was given the opportunity to obtain a decision, but it did not present its case to the Committee when scheduled to do so.

Conclusion

The evidence in this matter shows that Doe is a resident of North Providence, not Lincoln. Accordingly, absent some other arrangement with the Lincoln school district, we order Petitioner to promptly enroll Doe in the North Providence school system.

Paul E. Pontarelli
Hearing Officer

Approved:

Peter McWalters
Commissioner of Education

Date: April 17, 2006