

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

IN RE: INCREASING REAL PROPERTY OF TAX : NO. 05-00,778  
REVENUES OF JERSEY SHORE AREA SCHOOL :  
DISTRICT FOR THE TAX YEAR OF JULY 1, 2005 :  
- JUNE 30, 2006 :

**OPINION AND ORDER**

Before the Court is the Petition of the Jersey Shore Area School District, filed April 29, 2005, seeking approval to increase its real estate tax levy an additional 16% above the 10% increase allowed by law.<sup>1</sup> A hearing on the petition was held May 26, 2005.

This matter is governed by Section 5453.602(b) of the Fourth to Eighth Class County Assessment Law, 72 Pa.C.S. Sections 5453.101 et seq., which provides, in pertinent part:

(b) After any county has established and completed, for the entire county, the permanent system of records consisting of tax maps, property record cards and property owner's index as required by section 306 of this act, and has made its first county assessment of real property or subsequently makes a county-wide revision of assessment of real property under that system and at values based upon an established predetermined ratio as required by this section or when a county changes its established predetermined ratio, each political subdivision, which hereafter for the first time levies its real estate taxes on that first or revised assessment or valuation, shall, for that first year, reduce its tax rate, if necessary, for the purpose of having the total amount of taxes levied for that year against the real properties contained in the duplicate for the preceding year, equal, in the case of a school district, not more than one hundred and ten per centum ... of the total amount it levied on such properties the preceding year, notwithstanding the increased valuations of such properties under the new assessment system. ... **With the approval of the court of common pleas, upon good cause shown, any such political subdivision may increase the tax rate herein prescribed, notwithstanding the provisions of this subsection.** No political subdivision shall levy real estate taxes on a county-wide revised assessment until it has been completed for the entire county.

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<sup>1</sup> Although in the written petition the School District seeks approval to increase the levy by an additional 30%, that initial request was modified at the time of the hearing.

Simply put, since Lycoming County completed in 2004 a county-wide revised assessment of real property, the School District must set its tax rate for the 2005-2006 tax year so as not to assess more than 110% of the amount assessed in the 2004-2005 tax year<sup>2</sup> unless the Court grants approval to set the tax rate higher. To obtain such approval, the School District must demonstrate “good cause” for the increase. While the phrase “good cause” has not been precisely defined, in other contexts the Superior Court has turned to Black’s Law Dictionary, which defines it as “substantial reason, one that affords a legal excuse”, and has opined that “good cause” depends upon the circumstances of the individual case, and finding its existence lies largely within the discretion of the court. State Farm Insurance Company v. Swantner, 406 Pa. Super 235 (1991). Thus, there is no set standard by which to gauge the School District’s request; the Court must simply determine whether the increase has been sufficiently justified by the School District.<sup>3</sup>

At the hearing on May 26, 2005, the School District presented the testimony of its Superintendent, Richard Emery, its Business Manager, Adrienne Craig, and the President of the School Board, Michael Welch. The Court called as its own witness the Chief Assessor of Lycoming County, James Carpenter. Finally, at the Court’s invitation, numerous residents of the School District offered comments and suggestions. Inasmuch as it was represented to the Court that a final budget would be approved at the School Board meeting scheduled for June 1, 2005, the Court deferred its decision and requested the District provide a copy of that budget to the Court. The Court also requested the Board to formulate a list of further cuts that could be made to reduce the tax increase to the 10% allowed by law. Both of these documents were received by the Court on June 2, 2005, thereby closing the record.<sup>4</sup> Considering all of the evidence, the Court makes the following:

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<sup>2</sup> For the purpose of determining the total amount of taxes to be levied, the amount to be levied on newly constructed buildings or structures or on increased valuations based on new improvements made to existing houses need not be considered. Therefore, the calculation is somewhat more complicated than simply multiplying last year’s collections by 110%.

<sup>3</sup> The Court notes it did review two cases which addressed similar requests: School Board of Southampton Township School District Petition, 16 Pa. D. & C.2d 454 (Cumberland County 1958), and In Re: Increasing Real Property Tax Revenues of Schuylkill County, Pennsylvania for the Year 1981, 454 A.2d 195 (Pa. Commw. 1982). In both cases “good cause” for the increase requested therein was found based on, inter alia, deficits in the budget.

<sup>4</sup> The Court notes the budget adopted by the Board on June 1, 2005, indicates it is not a final budget but is tentative. Apparently, however, only the particular positions to be cut are at issue, not the number of such.

## **FINDINGS OF FACT**

1. The Jersey Shore Area School District is a public school district existing under and by virtue of the laws of the Commonwealth of Pennsylvania.
2. The School District is located in both Lycoming County and Clinton County. Most of the District's facilities, including its business office, are located in Lycoming County.
3. Prior to 2004, Lycoming County had established and completed, for the entire County, a permanent system of records consisting of tax maps, property record cards and property owner's index as required by Section 306 of the Fourth to Eighth Class County Assessment Law.
4. Lycoming County completed a county-wide reassessment of real property in 2004.
5. The millage assessed by the School District for tax year 2004-2005 was 17.75 mils, which generated potential tax revenue of approximately \$7,268,000.
6. The statutory limitation would allow the School District to set a rate for tax year 2005-2006 such that it would have potential tax revenue of approximately \$7,994,800, or 11.91 mils (based on the increased real estate values in the district).
7. Considering new construction and improvements, a rate of 11.91 mils will actually generate potential tax revenues of \$8,050,000.
8. The District estimates total revenues (using the millage rate of 11.91 mils) in 2005-2006 of \$29,402,630.
9. The District's 2005-2006 budget calls for appropriations of \$30,565,085.
10. Planned expenditures exceed revenues by \$1,162,455.
11. The District plans to use the \$5,305 left in the fund balance, leaving a deficit of \$1,157,150. The tax increase of an additional 16% is meant to cover this deficit.
12. Since tax year 1997-1998, expenditures in the District have exceeded revenues.
13. Since tax year 1997-1998, the District's fund balance has declined from just over \$2,000,000 to \$5,305. The District has been using some of this money, intended for

building projects, to meet expenses. The remaining \$5,305 will be used in tax year 2005-2006, as noted above.

14. Since tax year 2000-2001, the district has also used capitalized interest and scoop refunding to meet expenses. This source is no longer available.
15. The real estate tax rate in the District has increased by only 1.91% per year in Lycoming County and 2.94% per year in Clinton County over the last ten years.
16. Increases in other sources of revenue have slowed in the past few years. For example, a prior 4% annual increase in one state source has been reduced to 2 ½ % in the past four years.
17. The District is limited by certain state and federal mandates from making certain cuts in the budget.
18. The District has certain contractual obligations that may not be modified.
19. The School Board has explored other revenue sources and has incorporated such into the current budget.
20. The petition filed by the District on April 29, 2005, seeks approval of an increase of an additional 30% over the 10% allowed by statute.
21. After meetings on May 16 and May 23, 2005, the Board made additional cuts in expenditures to reduce the tax increase from the original request of 30%, to 23% and then 16%, respectively.
22. To achieve the final budget which requires a 26% tax increase, the Board made the following cuts:
  - a) 10 instructional staff
  - b) 2 administrative staff
  - c) 16 aides
  - d) 3 secretarial staff
  - e) ½ custodian
  - f) 14 lunch room monitors
  - g) Driver Education (by implementing payment for such)
  - h) 14 Department Coordinators

- i) implement health insurance co-pay for classified staff
  - j) eliminate Community Swim
  - k) implement athletic participation fee
  - l) eliminate after-school library hours
  - m) eliminate extra days for 10-month secretaries
  - n) reduce athletic budget
  - o) reduce technology budget
23. Together these cuts represent a reduction in expenditures of \$1,484,439.
24. Specific suggestions to further reduce the tax increase, made by residents of the District, include eliminating the athletic programs, and art, music and computer classes.
25. Eliminating all athletic programs would reduce costs by \$475,000. Eliminating band/chorus programs would reduce costs by \$43,300. Eliminating advanced computer classes at the senior high school would not reduce costs as such are supported by grants from Penn College.
26. The School Board's suggestions for further cuts to reduce the tax increase to the 10% allowed by law, and the savings represented, include:
- a) eliminate adult education classes or increase fees to cover real costs - \$27,800
  - b) eliminate substitute caller (clerical position) - \$9,500
  - c) eliminate dental hygienist position - \$40,000
  - d) eliminate elementary guidance counselor - \$80,000
  - e) eliminate secondary guidance counselor - \$80,000
  - f) eliminate elementary music teachers - \$70,000
  - g) eliminate elementary librarian - \$70,000
  - h) eliminate physical education teacher - \$70,000
  - i) eliminate 2 additional elementary teachers - \$140,000
  - j) eliminate additional high school English position - \$70,000
  - k) eliminate additional high school Social Studies position - \$70,000
  - l) eliminate 1.5 Special Education teachers - \$105,000
  - m) cut 6 additional instructional aides - \$150,000

- n) eliminate maintenance position - \$30,000
  - o) eliminate 2 custodial positions - \$60,000
  - p) cut professional development travel and conferences - \$38,000
  - q) eliminate middle school art teacher - \$70,000
27. The District's Superintendent, Richard Emery, believes that further cuts would materially affect the quality of education in the District..
28. A tax increase of 26% would place the rate in the District at 13.62 mils, making it the highest rate among the school districts in Lycoming County, but by only .06 mils.
29. According to James Carpenter, the Chief Assessor, a tax increase of an additional 16% would raise the school tax on a home valued at \$65,000 by approximately \$110.
30. The Court heard from numerous residents on fixed incomes who indicated the proposed tax increase would result in a hardship to them. The Court accepts this testimony.

## **DISCUSSION**

There is no question, from the evidence presented, that the School District has backed itself into a difficult financial corner. And, while the residents have legitimate questions concerning the District's past choices which have contributed to this situation, it is clear to the Court that simply denying the District's request as a sort of "punishment" for those choices would not be in the best interest of either the residents or the students. Ultimately, it is the students, through the quality of their education, or rather, the lack of a quality education, who would pay for such measures.

The Court believes that further cuts would indeed negatively impact the quality of education, and in any event, an even greater tax increase would likely follow in 2006-2007, when Court approval is no longer necessary. The suggestions made by some of the residents, of cutting the athletic programs, art, music and computer classes, and other extra-curricular activities, while certainly easing the financial burden, could have adverse effects which, although incapable of measurement, could more than outweigh any financial gain. The Court is ill-equipped to attempt to micro-manage every line item in the budget and to make determinations as to the cost-benefit ratio of industrial arts, music programs and other such

educational programs. It must rely on common sense and the professional opinions of the School District personnel.

It is extremely unfortunate that the District has chosen to delay tax increases until the deficit must be met in one year, rather than meeting the demand all along, but it is not for the Court to pass judgment on the soundness of the District's past financial decisions. The Court is called upon only to determine whether "good cause" has been shown for the requested tax increase. That is, whether it is necessary. In this Court's opinion, it is necessary, inasmuch as it appears the Board has thoughtfully and carefully considered all options and has formulated a budget that will affect the taxpayers as little as possible under the circumstances, while maintaining the quality of the children's education as much as possible. The Court is mindful of the strain this will place on the residents of the District, and does not take this decision lightly, but realistically, substantial tax increases should have been implemented in prior years. Regrettably, the savings realized by the taxpayers in prior years as a result of this policy must now be reconciled. After careful consideration of all of the evidence offered by the District, as well as the comments and suggestions of the residents, the Court finds the District has established by a preponderance of the evidence that good cause exists for the increase.

**ORDER**

And now, this 3<sup>rd</sup> day of June 2005, for the foregoing reasons, the request of the Jersey Shore Area School District to increase its real estate tax levy an additional 16% above the 10% increase allowed by law is hereby APPROVED.

BY THE COURT,

Dudley N. Anderson, Judge

cc: J. David Smith, Esquire  
Gary Weber, Esquire