

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

RONALD E. SNELL, et. al.,
Plaintiffs

v.

MONTOURSVILLE AREA SCHOOL
DISTRICT, et. al.,

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: DOCKET NO.: 15-01,770

:

: CIVIL ACTION - EQUITY

: MOTION FOR PRELIMINARY INJUNCTION

FILED
LYCOMING COUNTY
2015 AUG 11 PM 3:00
SUZANNE M. PROTHONOTARY
CLERK

OPINION AND ORDER

This matter comes before the court on the Plaintiffs' motion for preliminary injunction to enjoin Defendants (collectively "School Board") from awarding bids and entering contracts on August 11, 2015 for construction of the High School Project. After a hearing on the motion for preliminary injunction, held August 10, 2015, the Court concludes that the Plaintiffs failed to establish the six "essential prerequisites" for a preliminary injunction.¹

By way of background, this matter involves a school board moving ahead with plans with a high school construction project which has been underway for almost two years. Five write-in candidates prevailed in a primary election held on May 19, 2015. The five write-in candidates campaigned against the high-school construction project and prevailed decisively over four incumbent board members who favored the project. Plaintiffs (tax-payers and a successful primary candidate) seek to stop the School Board from moving forward with the construction project.

It is well settled that, in reviewing school board decisions, this Court may not act as a "super school board." The Pennsylvania Supreme Court put forth a "heavy burden of proof" for

¹ The six prerequisites are: (1) relief is necessary to prevent immediate and irreparable harm that cannot be adequately compensated by money damages; (2) greater injury will occur from refusing to grant the injunction than from granting it; (3) the injunction will restore the parties to their status quo as it existed before the alleged wrongful conduct; (4) the petitioner is likely to prevail in the merits; (5) the injunction is reasonably situated to abate the offending activity; and (6) the public interest will not be harmed if the injunction is granted. Warehime v. Warehime, 860 A.2d 41, 46 (Pa. 2004).

Courts to intercede in the decision making by school boards. Telly v. Pennridge Sch. Dist. Bd. of Sch. Dirs., 617 Pa. 473, 493-494 (Pa. 2012)(citations omitted). Indeed, review of decisions by school boards is "restrained . . . by the long-established and salutary rule that the courts should not function as super school boards." Telly, supra, citing, Zebra v. Sch. Dist. of the City of Pittsburgh, 449 Pa. 432, 437, 296 A.2d 748, 750 (1972). Our Pennsylvania Supreme Court has held that "the discretion of school authorities will be interfered with only when there is a clear abuse of it, and the burden of showing such an abuse is a heavy one." Regan v. Stoddard, 361 Pa. 469, 473, 65 A.2d 240 (1949)(Court sustained objections to injunction sought by taxpayers on academic issues.). In the present case, the School Board was authorized by statute to provide for school facilities. 24 P.S. § 7-701. The decision to construct the high-school was not a mid-night 11th hour decision by ousted public officials. Rather, the School Board engaged in a lengthy deliberative and planning process and, after thorough consideration, opted for construction of the high-school. The Court concludes Plaintiffs have failed to establish the "heavy burden of proof" required for this Court to intercede.

Plaintiffs contend that the School Board cannot move forward with the construction project because they contend such contracts violate the principles outlined by the Pennsylvania Supreme Court in Loblito, Inc., v. North Pocono School District, 562 Pa. 380, 755 A.2d 1287 (Pa. 2000) against one governmental body binding a successor body with respect to governmental functions. Plaintiffs assert that - to avoid an injunction - the School Board is required to show that accepting bids and executing contracts at this time is out of urgency, necessity, in the public interest and that the decision was made in the absence of bad faith or ulterior motives. *See, e.g.,* Lobolito, supra, citing MacCalman v. County of Bucks, 411 Pa. 316, 191 A.2d 265 (1963), which outlines an exception to binding successor bodies. This Court does

not agree. Such a showing by Defendants would support an exception to the unenforceability of contracts that bind successor governmental bodies as outlined in Lobolito. However, Plaintiffs have not cited authority for judicial intervention to enjoin the execution of such contracts. Simply put, Lobolito does not authorize this Court to enjoin a duly elected School Board from lawfully awarding bids or executing such contracts in the discharge of their duties as a part of a deliberative process which extended over the course of almost two years, particularly in the absence of arbitrary and capricious conduct, abuse of discretion or bad faith.

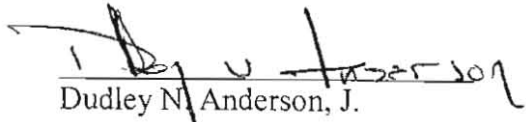
Plaintiffs concede that the School Board has not acted arbitrarily or capriciously in reaching its conclusion. In fact, testimony established that the School Board has developed its conclusion through a fairly exhaustive review and opportunity for public input that commenced in December 2013.² Further and, perhaps most telling, Plaintiffs concede the intended vote to award bids is lawful and within the power of the School Board as provided by the School Code. 24 P.S. § 7-701. Hence, the application of “wrongful” as an element of the injunctive process is reduced to unpopular. To summarize, testimony established that Plaintiffs seek to have this Court enjoin a properly constituted legislative body from performing an act that lies within its power and is lawful. This Court believes such an act is beyond the equitable power of the court and it can find no authority in Pennsylvania which authorizes such an invasion into the legislative process.

² Defendants' Exhibit 33 outlines twelve public presentations to the school board on the high school project for consideration, occurring on February 25, 2014, May 27, 2014, July 8, 2014, September 9, 2014, October 29, 2014, January 13, 2015, February 24, 2015, March 10, 2015, March 24, 2015, April 14, 2015 and June 23, 2015.

ORDER

AND NOW, this 11th day of **August, 2015**, for the foregoing reasons, it is hereby ORDERED and DIRECTED that Plaintiffs' Motion for a Preliminary Injunction is DENIED.

BY THE COURT,


Dudley N. Anderson, J.

cc: Clifford A. Reiders, Esq. / Corey J. Mowrey, Esq. for Plaintiffs
Howard L. Kelin, Esq. / Jeffrey D. Litts, Esq. for Defendants
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