

1992 WL 184295

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United States District Court, N.D. Illinois, Western
Division.

PEOPLE WHO CARE, et al., Plaintiffs,
v.
ROCKFORD BOARD OF EDUCATION, SCHOOL
DISTRICT # 205, Defendant.

Civ. A. No. 89 C 20168. | June 16, 1992.

Attorneys and Law Firms

Robert C. Howard, Chicago, Ill., for plaintiffs.

Anthony G. Scariano, Chicago, Ill., John Schmidt,
Rockford, Ill., for defendant.

Stephen G. Katz, Chicago, Ill., for intervenor.

Opinion

INTERIM FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER PROVIDING FOR REMEDIAL RELIEF RELATIVE TO THE ISSUANCE OF \$10,000,000.00 OF BONDS

ROSZKOWSKI, District Judge.

*1 This cause coming on to be heard on the Motion of Defendant for Leave of Court to Permit Implementation of Corrective Action, said motion having been filed with the Court on June 12, 1992, and the Court having heard the arguments of the parties concerning the same, and the Court being fully advised in the premises, it is hereby **Ordered, Adjudged and Decreed** as follows:

1. This Court has jurisdiction over the subject matter of this cause and personal jurisdiction over the parties.
2. On January 29, 1992 this Court approved Defendant's financial plan for implementation of the remainder of its obligations under the Second Interim Order; on January 31, 1992 this Court approved the issuance of \$10,000,000.00 of additional bonds to effectuate such plan.
3. On May 22, 1992, this Court denied Defendant's request to reduce the amount of said bond issue based on certain requested delays, and ordered Defendant to issue said bonds.

4. This Court recognizes the inherent authority of Defendant to provide for the foregoing relief, pursuant to the equitable jurisdiction of this Court, and within the provisions of law granting the Defendant the authority to arrange its school sites, all as contained in Chapter 122, Section 10, *Illinois Revised Statutes* (Illinois School Code).

5. This Court finds the Defendant is not possessed of sufficient funds to provide for the remedial action specified in said Motion.

6. This Court believes that such remedial action as specified in its Order of May 22, 1992, should be commenced without further delay.

7. This court has heretofore found that certain provisions of law, namely Chapter 85, Section 9–101 *et seq.*, *Illinois Revised Statutes*, provides that the Defendant is subject to the provisions of the **Local Governmental and Governmental Employees Tort Immunity Act of the State of Illinois**, as amended (The “*Tort Immunity Act*”). The *Tort Immunity Act* empowers and directs a local public entity such as the Defendant to pay any liability imposed upon it for a tortious act under Federal or State common or statutory law or to pay any tort judgment or settlement for compensatory damages based on any injury caused by an alleged negligent or alleged wrongful act or omission of the local public entity. The Board of Education of the Defendant may, if it considers the action advisable, issue general obligation bonds without referendum to pay such liability, judgment or settlement. In addition thereto (or in the alternative), the Defendant may pay for such recurring and continual incremental costs for such programs specified in the Second Interim Order by additional levies in the Defendant's Tort Immunity fund. Pursuant to that Order, the Defendant is mandated to fund the cost of the activities required therein, including, but not limited to, the capital expenses of acquiring sites and altering, building, equipping, improving, rebuilding, reconstructing, renovating, repairing, and restoring school buildings and facilities. This Court has previously considered the provisions of Article IX—Payment of Claims and Judgment—of the *Tort Immunity Act* and has found that the funding by the Defendant of the costs of said activities constitutes and is the payment by the Defendant of a liability, tort judgment or settlement that authorizes the issuance of the District's non-referendum general obligation bonds referred to in Section 9–105 of the *Tort Immunity Act* and the levying of an annual rate of tax in the Defendant's annual levy for Tort Immunity purposes, to pay for annual and recurring

program costs (other than the institution of capital improvements) as required by that Order.

*2 8. This Court has further heretofore found that the relief requested by Defendant is in the nature of remedial action taken to protect Defendant against a potential finding of liability for violations of constitutional rights of the Plaintiffs, all as set forth in the original Complaint and second Amended Complaint filed in this cause. As such, the remedial action undertaken by Defendant on a voluntary basis would protect itself from such a finding of liability and hence has been and continues to be a proper expenditure of funds of Defendant to protect against a judgment which would sound in tort, pursuant to the provisions of Illinois Law.

9. Pursuant to this Court's Order of May 22, 1992, Defendant shall forthwith cause to be issued and sold \$10,000,000.00 of General Obligation Bonds to provide for the following purposes and in the following amounts shown in column three of the attached spread sheet, subject to the adjustments noted below:

(a) Marsh School (rehabilitation) [first bond issue] \$107,000.00 to contingency fund

(b) Riverdahl School (rehabilitation) [first bond issue] \$60,000.00 to contingency fund

(c) Church School (building costs) \$116,000.00 to contingency fund

(d) Marsh School (rehabilitation costs) \$360,000.00 to contingency fund

(e) Wilson School (rehabilitation costs) \$400,000.00 to contingency fund

(f) An additional amount equal to \$144,000.00 from the contingency funds shall be transferred to the Washington School capital budget pursuant to the Planning Committee's recommendation.

(g) Once the second bond issue is disbursed, the amount of \$97,400.00 shall be reimbursed on line 30 (Washington) from column three to column one.

(h) The balance of contingency funds from the first and second bond issues shall be placed in a special interest bearing escrow fund, and expenditures therefrom shall not be expended without the consent of the Court Appointed Monitor, Dr. Eugene Eubanks, or pursuant to further order of this Court.

(i) Any interest earned on the bond proceeds while awaiting expenditure shall be paid into the Contingency Fund.

10. This Court further finds that the relief granted herein shall not impede, delay, or interfere with any other of the obligations of the Defendant as may be required by further orders of this Court in the implementation of the Second Interim Order, either by agreement between the parties or as determined as necessary by this Court.

11. This Court shall retain jurisdiction to enforce the terms and conditions of this Order. The Defendant shall file, within sixty (60) days, a plan of implementation of this Order with precise cost estimates and scheduling of its obligations ordered herein.

TORT IMMUNITY FINANCING DATA

ROCKFORD SCHOOL DISTRICT NO. 205

(Prepared by Paul Schilling)

TORT IMMUNITY LEVY MODIFICATION AND BOND DATA

			1	2	3	4
			ACCT'G	JAN '92	MAY '92	TOTAL
Line	PAGE	PRG M	REVISED	BONDS	BONDS	BONDS

People Who Care v. Rockford Bd. of Educ. School Dist. No. 205, Not Reported in...

No.	DESCRIPTION	REF.	NO.	LEVY AMT	15m	10m
1	Regular Tort:					
2	Liability Insurance			762,753		
3	Treasurer's Bond			45,000		
4	Unemployment Compensation			275,000		
5	Worker's Compensation			479,650		
6					
7	Sub-Total.....			1,542,403		
8	Less Interest Earned.....			92,403		
9					
10	Estimated Regular Tort Levy.....			1,450,000		
11						
12	Court Order—Regular Levy:					
13	Within School Integration..... B1	9	700	50,000		50,000
14	Human Relations Inservice..... B2	12	701	373,000		373,000
15	In School Suspension..... B3	13	702	632,000		
16	Parent Choice..... B4	14	703	0		50,000
17	Recruitment: Parent Centers..... B5	15	704	237,000		
18	Garrison School..... B5		704		80,000	0
19						
20	Equity Impact..... B6	16	705	50,000		
21	Computer/Resource Data..... B9	25	706	100,000	2,368,378	0
22	School Based Management..... B10	26	707	0		
23	Staff Assignment..... B11	26	708	0		
24	Elementary Facilities..... C1	31	709	0		

People Who Care v. Rockford Bd. of Educ. School Dist. No. 205, Not Reported in...

25	Church School..... C1a	34	709		3,600,000	2,400,000	6,000,000
26	Marsh School..... C1	34	709		2,890,000	360,000	3,250,000
27	Riverdahl Addition C1d	33	709		1,930,000	475,000	2,405,000
28	Alternative Programs..... C3	35	710	357,000			
29	Voluntary Movement Consult..... C4	37	711	0			
30	Washington Magnet School..... C5	38	712	260,000		359,000	359,000
31	Wilson Magnet School Staff..... C6	41	713	260,000			
32	Wilson Magnet School..... C6	41	713		250,000	3,033,000	3,283,000
33	Roosevelt Center D4	67	723		2,900,000	500,000	3,400,000
34	Church Magnet School..... C6A	41	714	0		33,000	33,000
35	Core Program Equity..... C7	42	715	0			
36	Supplemental Programs..... C8	43	716	2,144,000		1,000,000	1,000,000
37	Voluntary Transfers..... C9o	49	717	445,000			
38	Facilities/Equipment Equity..... C10	55	718	0		60,000	60,000
31	High School Program..... D6	68	719	210,000			
32	Affirmative Action E	69	720	150,000			
33	Staff Compensation..... F	80					
34	Administration of Order..... G	81	721	232,000			
35	Attorneys/Evaluation.....	81	722	1,500,000		440,000	440,000
36	Contingency.....		724	0	461,166	497,000	958,164
37	Cost of Issuing Bonds.....		725	0	520,458	370,000	890,458
38							
39	Sub-Total.....			6,800,000	15,000,000	10,000,000	25,000,000
40	Bonding Required.....				15,000,000	10,000,000	25,000,000
	6,560,000			Capital Outlay Items.....			

People Who Care v. Rockford Bd. of Educ. School Dist. No. 205, Not Reported in...

3,440,000

Cash Flow Items.....