

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC.

Filed March 29, 2007

SUPERIOR COURT

SCHOOL COMMITTEE OF THE :
TOWN OF PORTSMOUTH and :
SUSAN F. LUSI, in her capacity as :
SUPERINTENDENT OF SCHOOLS :
Plaintiffs :

v. :

C.A. No. : PC 06-6249

TOWN OF PORTSMOUTH, through its :
FINANCE DIRECTOR, DAVID :
P. FAUCHER; MARY ANN EDWARDS, :
JAMES A. SEVENEY, DENNIS M. :
CANARIO, ALBERT E. HONNEN, JR., :
LEONARD B. KATZMAN, PETER J. :
McINTYRE, and WILLIAM E. WEST :
as members of the PORTSMOUTH :
TOWN COUNCIL :
Defendants :

AMENDED DECISION

INDEGLIA, J. On March 16, 2007, this Court issued a Decision (March 16 Decision) in which the Court determined that the Portsmouth School Committee will be unable to operate the public school system in the Town of Portsmouth for the fiscal year 2006-2007, and maintain compliance with state and federal law and regulation, the BEP, and contractual agreements binding on the School Committee, unless an additional appropriation in the amount of \$544,051 is granted by the Portsmouth Town Council. In reaching this determination, the Court suggested, in part, that the sum of \$25,000 be taken from the Town Council's information and technology warrant item account to be added to the School Department budget (see March 16 Decision at pages 12 and 19).

The Town of Portsmouth has filed a Motion for Reconsideration supported by an Affidavit of David P. Faucher, Finance Director and Treasurer of the Town of Portsmouth. Mr. Faucher states in his Affidavit that the Town's \$350,000 warrant item account for information and technology has been funded by a general obligation bond (five year serial note). Mr. Faucher has contacted the Town's bond counsel to discuss the ramifications of the Town taking such action with respect to the warrant item account, as suggested by the Court. The Town's bond counsel has indicated that a deliberate redirection of the borrowed funds away from the stated purpose of purchasing information technology related equipment would likely jeopardize the tax exempt status of the bonds, and therefore recommends against taking such action. Bond counsel has informed Mr. Faucher that extensive research would be required, at significant cost to the Town, to provide a definitive answer. To avoid this additional cost and the possible loss of tax exempt status for the bond, the Town Council, at its regular meeting on March 26, 2007, voted unanimously to increase the Town's contribution to the School Department by \$25,000, from \$544,051 to \$569,051. The Town requests that the Court's March 16 Decision be amended to specify that the Town Council provide the School Department with an additional appropriation in the total amount of \$569,051, and that an order and judgment be entered accordingly.

Based on the Affidavit of Mr. Faucher, the Court hereby amends its March 16 Decision and finds that the redirection of \$25,000 from the information and technology warrant item account to the School Department budget is not practicable and, therefore, an additional appropriation of \$25,000, over and above the \$544,051 specified in the Court's March 16 Decision, is necessary in order for the School Committee to legally

operate the public school system for fiscal year 2006-2007. Accordingly, the Town Council is hereby ordered to cause an additional appropriation in the amount of \$569,051 to be added to the School Committee's budget for the fiscal year 2006-2007.

The remaining content of he Decision filed on March 16, 2007, remains the same.