

ARGIRO K.,

Appellant

v.

ANNE ARUNDEL COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 11-08

OPINION

In this appeal, the Appellant challenges the decision of the Anne Arundel County Board of Education ("local board") finding that she and her children are not bona fide residents of Anne Arundel County. The local board has submitted a Motion for Summary Affirmance arguing that its decision was not arbitrary, unreasonable or illegal and should be upheld.

FACTUAL BACKGROUND

At the start of the 2009-2010 school year, the Appellant's three children attended schools in Anne Arundel County. E.K. attended Severna Park High School ("Severna Park"); M.K. attended Crofton Middle School; and I.K. attended Crofton Elementary School. The Appellant registered E.K. in August 2009 using a lease indicating she resided at 332 Benfield Road, Severna Park, MD. The same address was listed for I.K. However, M.K.'s address on record was 1416 Nutwood Lane, Crofton, MD.

Around January 2010, a school administrator at Severna Park requested a residency investigation into E.K.'s address following comments the Appellant made indicating she had children at Crofton schools. The investigation was requested because the attendance areas for Severna Park and the Crofton schools are miles apart and do not overlap.

A pupil personnel worker ("PPW") conducted the residency investigation beginning in January 2010. Following a record review, the PPW found that:

- State Department of Assessment and Taxation records list the Appellant as owner of property at 8301 Satinleaf Court, Bowie, MD;
- Motor Vehicle Administration records list the Bowie address on the Appellant's and her husband's driver's licenses and registration for their three vehicles;
- U.S. Postal Service records confirm that the Appellant and her husband receive mail at the Bowie address;
- Court records indicate that traffic citations were sent to the Appellant and her husband at the Bowie address;
- The Nutwood Lane, Crofton address, used for M.K.'s attendance at Crofton Middle, is

- not owned by the Appellant or her husband; and
- State records reflected that the Benfield Road, Severna Park address, used for E.K. and I.K., is owned by Linda Utz-Jablin.

In addition to the records review, the PPW conducted several home observations of the Bowie and Severna Park addresses, five of which took place between January 19 and January 25, 2010. During the visits to the Satinleaf Court, Bowie property, the PPW observed two vehicles registered to the Appellant and her husband parked outside. The PPW observed E.K. leaving the house early one morning on which she appeared in school on time. The PPW also spoke with a neighbor, who indicated that a Greek family with children lived at the address, but he could not confirm where the children attended school.

During the visits to the Benfield Road, Severna Park address, the PPW observed other cars parked outside that were not registered to the Appellant or her husband. One of the cars was registered to Banayiotis K., who is listed on E.K.'s emergency card as the Appellant's brother-in-law.

On January 25, 2010, the Severna Park principal notified the Appellant that E.K. resided outside of Anne Arundel County at the Bowie address and would be withdrawn on February 9, 2010.¹ The Appellant appealed to the local superintendent. On February 22, 2010, the local superintendent's designee denied the appeal because the Appellant presented insufficient evidence that the family resided in the attendance area for Severna Park High School.

The Appellant next appealed to the local board, producing several documents to establish her bona fide residency at the Benfield Road, Severna Park address. The Appellant explained that she and her husband maintained a business from the Bowie address, and that her personal checks used to pay rent at the Severna Park property retained the Bowie address to match their business records. The Appellant also stated that her father and mother-in-law now lived at the Bowie address. To prove her residency at the Severna Park address, the Appellant submitted the following:

- A copy of a rental lease, on which the initial rental period of July 11, 2008 to June 30, 2009 was crossed out and "July 1, 2009 to June 30, 2010" was handwritten in;
- Copies of cancelled checks, with the Bowie address, paying rent from October through December 2009, January 2010 and March 2010;
- A letter from the owner and landlord of the Severna Park address stating the family resides at the address;
- Copy of the Appellant's driver's license with the Severna Park address, which the Appellant states she renewed following her lawyer's advice;
- An undated Verizon bill and a December 2009 BG&E bill for the Severna Park address with the Appellant's and her husband's name; and

¹ The record does not contain information regarding whether I.K. or M.K. were also withdrawn from their respective schools during this time.

- Letters from two neighbors of the Severna Park address confirming the family lives there.

While her appeal was pending before the local board, the PPW, with assistance from a residency verifier, conducted three additional home visits to the Severna Park address and seven to the Bowie address. Two of the three visits to the Severna Park address were on days the school was closed due to snow, but none of the Appellant's or her husband's vehicles were observed at the home. The vehicles that were observed at the home were covered with snow.

Conversely, the Appellant and her husband's vehicles were observed parked at the Bowie property, and on six days, one or more of the children were observed leaving the house with an adult in the early morning hours on days that they arrived to school on time.

On June 30, 2010 the local board rendered its decision. The local board found that despite the Appellant's documentation, substantial evidence from the residency investigation shows that the Appellant's family lives in Bowie. While the Appellant appeared to have some connection to the Severna Park address, perhaps through family members living there, the local board concluded that the Appellant did not meet the burden of establishing a bona fide residence at that address. Consequently, the local board upheld the superintendent designee's decision.² This appeal to the State Board followed.

STANDARD OF REVIEW

Local board decisions involving a local policy or a controversy and dispute regarding the rules and regulations of the local board are considered *prima facie* correct. The State Board will not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal. COMAR 13A.01.05.05A.

LEGAL ANALYSIS

State law requires bona fide residency as a condition of free attendance at Maryland's public schools. *See* Md. Code, Educ. Art. §§7-101. Except in certain circumstances, children who attend a Maryland public school "shall attend a public school in the county where the child is domiciled with the children's parent...." *Id.* §7-101(b).

Local board Policy JAB/900.01, "Assignment And/Or Transfer of Students to a School," requires students to attend the school designated to serve the attendance area of their bona fide residence, unless one of the enumerated exceptions apply. "Bona fide residence" is defined as "the actual place of residence the student maintains in good faith. It does not include a temporary residence established for the purpose of free attendance in the public schools." (Reg. JAB-RA, sec. C.1.d.) The policy places the burden of proof to establish bona fide residency on the student, caretaker, parent or guardian.

² While the residency investigation initially began with E.K.'s residency at Severna Park High, it appears that the local board's decision extends to M.K. and I.K., as well.

In this appeal, the Appellant does not dispute most of the findings from the PPW's residency investigation that the local board reviewed, but she again provides explanations for her use of different addresses in Severna Park, Crofton and Bowie.

The Appellant contends that she rented the Severna Park residence and lived there for a year, and continues to pay rent and utilities. She intended to stay longer than a year, but her brother-in-law and his wife asked to move there last year. In exchange for rent, the brother-in-law and his wife tutor and take care of the Appellant's children when she and her husband travel for business.

In addition, the Appellant explains that she registered M.K. using her aunt and uncle's Crofton address because they also help care for the kids while she and her husband travel for business.

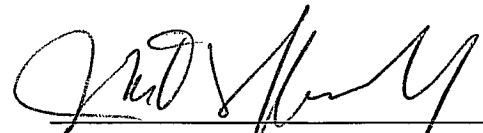
The Appellant concedes that she and her husband own the Bowie residence and are having a hard time selling it in order to move into the Severna Park area. She admits being at that residence for various reasons on the days the PPW conducted home visits, but she argues that the Severna Park address is their residence "due to the fact that most of the days my kids are in the house".

As the local board points out, the Appellant's statements in her State Board appeal belie the conclusion that she and her children actually reside at the Severna Park address. The Appellant clearly states that her brother-in-law and his wife now live at that residence and the Appellant continues to pay the rent and utilities in exchange for their agreement to care for the Appellant's children while she and her husband travel. The Appellant further states that she desires to move into the Severna Park area, but has been unable to sell the Bowie residence. Because the Appellant has admitted she and her husband do not actually reside at the Severna Park address, she improperly relies on the fact that her children are often there as a basis for residency.

Therefore, based on our review of the record, the local board's policies were fairly applied and the decision to find the Appellant and her children were not bona fide residents of the county was not arbitrary, unreasonable or illegal.

CONCLUSION

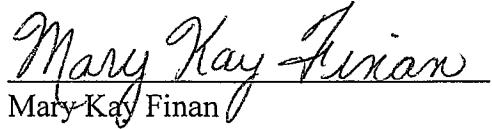
For all these reasons, we affirm the decision of the Anne Arundel County Board of Education.



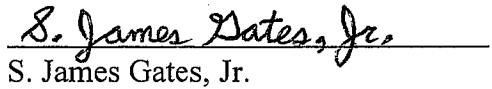
James H. DeGraffenreidt, Jr.
President



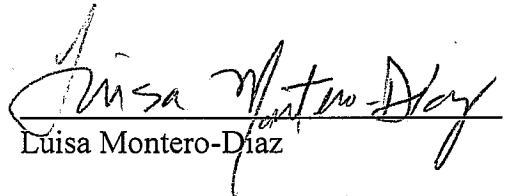
Charlene M. Dukes
Vice President



Mary Kay Finan



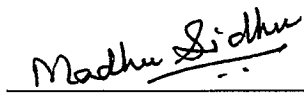
S. James Gates, Jr.



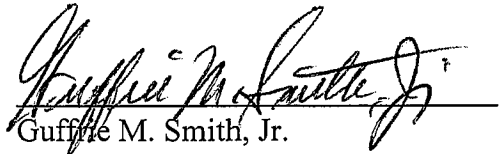
Luisa Montero-Diaz

ABSENT

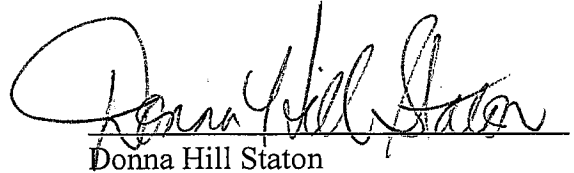
Sayed M. Naved



Madhu Sidhu




Guffie M. Smith, Jr.



Donna Hill Staton

ABSENT

Ivan C.A. Walks



Kate Walsh

February 22, 2011