

CARINA YEARDLEY,
Appellant

v.

ANNE ARUNDEL COUNTY BOARD OF
EDUCATION,
Appellee

BEFORE THE
MARYLAND
STATE BOARD
OF EDUCATION
Opinion No. 08-08

OPINION

INTRODUCTION

Two sets of parents, Ms. Yeardley and Mr. and Mrs. Sloane filed this appeal challenging the change in boundary attendance areas for Brock Bridge Elementary School (Brock Bridge) and Maryland City Elementary School (Maryland City). We referred this case to the Office of Administrative Hearings for an evidentiary hearing as required by COMAR 13A.01.05.07(A)(1).

On September 21, 2007, the Administrative Law Judge (ALJ) issued his Proposed Decision affirming the local board's decision in this matter. The parties have filed no exceptions to the ALJ's decision.

The ALJ's Decision

The ALJ considered whether the local board's decision to change the boundaries for Brock Bridge and Maryland City was arbitrary, unreasonable, or illegal. The local board presented testimony that it made the decision in order to relieve over-crowding at Brock Bridge by shifting students to Maryland City which was under enrolled. (Decision at 6). As a result, Maryland City gained the 69 students that Brock Bridge lost. (*Id.* at 7). The local board presented evidence of community involvement and its consideration of several alternatives. (*Id.* at 8). The Appellants, the ALJ concluded, presented no evidence sufficient to meet their burden by a preponderance of the evidence that the local board's decision was arbitrary, unreasonable or illegal. (*Id.* at 6-8).

CONCLUSION

We have reviewed the record and agree with the ALJ. Accordingly, we adopt the ALJ's

decision as a final decision in this matter.



Dunbar Brooks
President



Beverly A. Cooper
Vice President



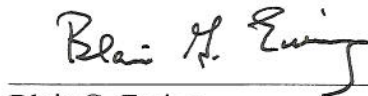
Lelia T. Allen



J. Henry Butta



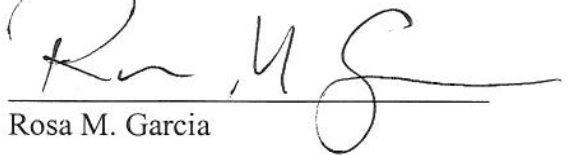
Charlene M. Dukes



Blair G. Ewing



Mary Kay Finan




Rosa M. Garcia

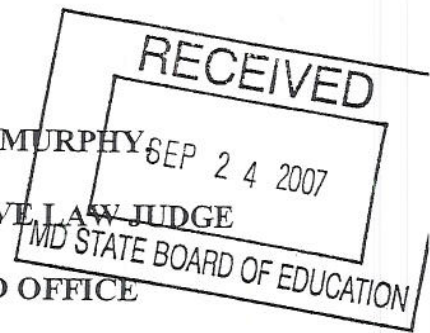


Richard L. Goodall


Karabelle Pizzigati


David F. Tufaro

January 30, 2008



CARINA YEARDLEY, *et al*,

APPELLANTS

v.

BOARD OF EDUCATION OF

ANNE ARUNDEL COUNTY

* BEFORE T. AUSTIN MURPHY
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE
* OF ADMINISTRATIVE HEARINGS
* OAH NO.: MSDE-BE-09-07-28837

* * * * *

PROPOSED DECISION

STATEMENT OF THE CASE
ISSUE
SUMMARY OF THE EVIDENCE
FINDINGS OF FACT
DECISION ON PRE-TRIAL MOTION
DISCUSSION
CONCLUSIONS OF LAW
PROPOSED ORDER

STATEMENT OF THE CASE

This case arises from a decision by the Anne Arundel County Board of Education (County Board), after a recommendation by the Superintendent of the Anne Arundel County Public Schools (AACPS), to change boundary attendance areas for certain students, including the Appellants' children. The County Board established the geographical attendance area for Brock Bridge (Brock Bridge) and Maryland City (Maryland City) Elementary Schools beginning August 2007. The process began one year earlier when the County Board authorized a Boundary Advisory Committee - West County Boundaries Committee (WCBC) to study boundary options. In making its decision, the County Board adopted the recommendation of the Superintendent, and it is this recommendation that the Appellants challenge in their appeal. Specifically, the Appellants challenge that part of the Superintendent's recommendation that assigns the Appellants' children to Brock Bridge attendance area instead of the Maryland City attendance area.

On July 24, 2007, I conducted a hearing at the Office of Administrative Hearings, 11101 Gilroy Road, Hunt Valley, Maryland, pursuant to Code of Maryland Regulations (COMAR) 13A.01.05.07. P. Tyson Bennett, Esquire, represented the County Board. The Appellants, Carina Yeardley and Eric and Eurika Fowler-Sloan represented themselves.

The contested case provisions of the Administrative Procedure Act, the procedural regulations for the State Board of Education, and the Rules of Procedure of the Office of Administrative Hearings govern procedure in this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2004 & Supp. 2006); COMAR 13A.01.05.07; COMAR 28.02.01.

ISSUE

Was the County Board's decision to assign students in the Maryland City District to Brock Bridge and not Maryland City Elementary School arbitrary, unreasonable or illegal?

SUMMARY OF THE EVIDENCE

Exhibits

The Appellants submitted the following exhibits which were admitted into evidence:

Appellants 1- A map showing the east side of Brock Bridge Road

Appellants 2- A map of the Russett Community

Appellants 3- December 12, 2006 Email from Cherlynn Venit to Dr. Maxwell and Members of the County Board

The County Board submitted the following exhibits which were admitted into evidence:

Board Ex. 1 Facility Options – Meade Zone

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- Board Ex. 5 October 9, 2006 West County Boundaries Committee Meeting Minutes
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- Board Ex. 7 Proposed Brock Bridge Russett Scenario
- Board Ex. 8 Current Boundaries of Brock Bridge and Maryland City Elementary School
- Board Ex. 9 Flyer announcing Redistricting Briefing
- Board Ex. 10 June 14, 2007 letter from Nestor A. Flores to the Board of Education

Testimony

Ms. Yeardley, Mr. Sloan and Ms. Sloan testified on their own behalf. The County Board presented the testimony of Aleksy Szachnowicz, accepted as an expert in the field of school facilities, and Charles Yocum, accepted as an expert in the field of student demographic planning.

FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

1. In October 2006, the County Board authorized a boundary study to realign boundaries for Brock Bridge and Maryland City Elementary Schools. The boundary study included the neighborhoods east of Brock Bridge Road and north and south of Laurel Fort Meade Road.
2. Brock Bridge Elementary School had an enrollment capacity of 537 students and Maryland City Elementary School's capacity was 392.
3. During the 2006-2007 school year Brock Bridge would receive 571 students with an estimated enrollment of 615 during the 2007-2008 school year. During the 2006-2007 school year Maryland City would receive 284 students with an estimated enrollment of 303 during the 2007-2008 school year.
4. The County Board established the West County Boundaries Committee (Committee) to assist with the redistricting process. The Committee was a citizen advisory committee comprised

of members nominated by the principals of the affected schools. The families of children of the affected schools were invited to the meetings.

5. The Committee held meetings on Monday evenings during October and November 2006 to evaluate boundary options. Additionally, the Committee held a public information meeting on January 30, 2007 to explain the process and to review the options developed throughout the process. AAPS Supervisor Specialist in Student Demographics and Planning, Charles Yocum, facilitated the meetings, prepared options based on community criteria and responded to the Committee's requests for information.

6. The recommendations of the Committee addressed the over utilization at Brock Bridge and the under capacity at Maryland City.

7. The Committee issued its report describing possible boundary options, which were developed by the Committee. The proposed boundary placed Ms. Yeardeley's and Mr. Sloane's children at Brock Bridge. This report was sent to the Superintendent for his review and subsequent recommendation to the County Board.

8. The County Board rejected the Committee's recommendation and proposed a second proposal which was presented to the public in January 2007.

9. The County Board conducted work sessions, solicited public input and position papers, and held public hearings based on the Superintendent's recommendation before issuing its final boundary change decision

10. The County Board's development of boundary options utilized, among other factors, calculations of the schools' capacity, present enrollment and projected enrollment. The County Board also considered a traffic-volume and pattern study by the County Department of Public Works.

11. The Superintendent's recommendation to the County Board relied heavily on the reassignment option that created a more equitable distribution of the children to reduce the overcrowding at Brock Bridge and the under capacity enrollment at Maryland City.

DISCUSSION

The Appellants have the burden to prove, by a preponderance of the evidence, that the decision of the County Board is arbitrary, unreasonable or illegal. COMAR 13A.01.05.05D.

COMAR 13A.01.05.05A provides:

Decisions of a county board involving a local policy or a controversy and dispute regarding the rules and regulations of the local board shall be considered prima facie correct, and the State Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal.

COMAR 13A.01.05.05B defines "arbitrary or unreasonable," as follows:

A decision may be arbitrary or unreasonable if it is one or more of the following:

- (1) It is contrary to sound educational policy; or
- (2) A reasoning mind could not have reasonably reached the conclusion the local board or the superintendent reached.

COMAR 13A.01.05.05C defines "illegal" as follows:

A decision may be illegal if it is one or more of the following:

- (1) Unconstitutional;
- (2) Exceeds the statutory authority or jurisdiction of the county board;
- (3) Misconstrues the law;
- (4) Results from an unlawful procedure;
- (5) Is an abuse of discretionary powers; or
- (6) Is affected by any other error of law.

I. ARIBTRARY OR UNREASONABLE

As noted above, the County Board's decision may be arbitrary or unreasonable if it is contrary to sound educational policy, or a reasoning mind could not have reasonably reached the conclusion the County Board reached.

A. Sound Educational Policy

The Appellants' argument that the redistricting decision in this case was arbitrary or unreasonable is premised almost exclusively on the fact that their children and other children similarly affected are required to cross a street which is heavily traveled, that the children who had been attending Brock Bridge are now subjected to a change as well as the fact that children in the neighborhood will be split in attendance between the two schools. Mr. and Ms. Sloane testified that their child, who would be attending Maryland City, is under an Individualized Education Plan (IEP) and would not have the same services offered at Brock Bridge.

The County Board presented the testimony of Aleksy Szachnowicz, who is the Chief Facility Officer of AACPS, who testified that Brock Bridge Elementary School consists of a building which is still functional but had more students enrolled than its capacity of 537. Maryland City Elementary is under capacity. Mr. Szachnowicz further testified that the County employed an outside agency, MGT of America, Inc. (MGT), to perform a study of all the schools in the county to determine their utilization for a ten-year period. MGT's study was completed in July 2006 and part of the report addressed Brock Bridge and Maryland City. MGT suggested that the overcrowding at Brock Bridge and the under-enrollment at Maryland City would be best relieved by adjusting the respective school boundaries.

Charles Yocum testified that he organized the meeting of the parents and school personnel appointed by the principals of the affected schools. In his capacity as a planner with the AACPS, Mr. Yocum is responsible for guiding the process for developing school boundary options. Mr. Yocum testified that he facilitated the weekly meetings of the interested parties during the months of October and November 2006. He testified that the County Department of Public Works was consulted to address the issue of traffic in the neighborhoods of the two schools and

that, according to the County Department of Public Works, there was no discernable increase in traffic between the Appellants' home and Maryland City. He added that as a result of the redistricting Brock Bridge lost and Maryland City gained 69 students.

The Appellants did not present evidence or testimony of any qualified expert in the field of educational policy. They indicated that they had submitted another plan which was not accepted by the Board. Their alternate plan would have placed Ms. Yeardeley's and the Sloanes' children at Brock Bridge.

The Appellants' concerns fall short of the Appellants' burden to prove by a preponderance of the evidence that the County Board's decision was contrary to sound educational policy.

The County Board, on the other hand, presented significant and compelling evidence and made it clear that the County Board engaged in appropriate consideration of the criteria set forth by the Committee and their decision was not contrary to sound educational policy. COMAR 13A.01.05.05B(1).

B. Reasonableness

The Appellants also failed to meet their burden to prove that a reasoning mind could not have reasonably reached the conclusion the County Board did in approving the Administration's proposed boundary changes. In contemplating the AACPS's ten-year future as studied by MGT, including the construction of new schools and redistricting existing schools, the County Board considers the following data: student enrollment trends, school building capacities, capacity utilization rates, transportation, mobility (turnover in school population) and future housing construction provided by the County Permit and Planning Departments. Based on these factors, a decision is made to construct new schools or redistrict school areas. The testimony and

documentary evidence support that those factors and the criteria set forth by the Board were carefully calculated and considered prior to the issuance of the final decision.

The Board presented a very reasonable explanation for its decision on the redistricting plan. (See *Stishan v. Howard County Board of Education*, MSBE Opinion No. 05-33, 09/27/05, and *Coleman v. Howard County Board of Education*, MSBE Opinion No. 05-32, 09/27/05.) Although the Appellants' disappointment with the County Board's decision to send their children to Maryland City is palpable, there is no evidence to suggest that the County Board did not take all of the factors outlined by the Appellants into consideration.

In *Bernstein v. Board of Education of Prince Georges County*, 245 Md. at 472, the Court of Appeals Stated:

'(T)he point is whether the move was reasonable and within the discretion of the Board. The test is not even that there may have been other plans that would have worked equally well, or may, in the opinion of some, have been better; the test is whether the action which was taken was arbitrary, capricious or illegal. I conclude that it was not and that if any of the other alternatives had been taken there would very probably be people complaining about that. It is a thankless job that the Board of Education has when it finds it necessary to move students from one school to another, particularly during the school year. In a rapidly growing county, however, that is sometimes necessary. The paramount consideration is the proper education of the students, and I conclude that the action of the Board did not run counter to that primary consideration and was not improper under the circumstances....'

Moreover, the public process provided substantial input from the community, and the County Board considered and thoroughly discussed all of the issues raised by the Appellants. The County Board considered all alternatives submitted and ultimately determined that the Maryland City neighborhood would have to be divided between the two schools because both schools are in the neighborhood and that moving the western end of the neighborhood to Maryland City was a reasonable exercise of its discretion and it was the best solution to alleviate

overcrowding at the Brock Bridge. There was nothing arbitrary or unreasonable in the County Board's decision. For those reasons, I find the Appellants have not met their burden to show that a reasoning mind could not have reasonably reached the conclusion the County Board reached. COMAR 3A.01.05.05B(2).

The Sloanes' argument that their child will not receive the same services that were offered at their last IEP is not relevant here. The Sloanes have an action under the Individuals with Disabilities Education Act, 20 U.S.C.A. § 1415 (Supp. 2007); 34 C.F.R. § 300.511 (2006); Md. Code Ann., Educ. § 8-413 (2006); Code of Maryland Regulations COMAR) 13A.05.01 if their child does not receive special education services.

In addition, there was no persuasive evidence that the Board's decision was illegal. Accordingly, I find that the Appellants have not shown that the Board's decision was an illegal decision. COMAR 13A.01.05.05C.

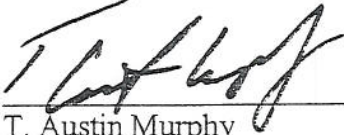
CONCLUSIONS OF LAW

Based on the foregoing Findings of Fact and Discussion, I conclude, as a matter of law, that the decision of the Anne Arundel County Board of Education, to establish boundary attendance areas for students at Brock Bridge Elementary School to attend Maryland City Elementary School was not arbitrary, unreasonable or illegal. COMAR 13A.01.05.05B, COMAR 13A.01.05.05C, COMAR 13A.01.05.05D.

PROPOSED ORDER

I **RECOMMEND** that the decision of the Anne Arundel County Board of Education, to change boundary attendance areas for students attending Brock Bridge Elementary School to attend Maryland City Elementary School be **AFFIRMED**.

September 21, 2007
Date Decision Mailed



T. Austin Murphy
Administrative Law Judge

TAM/
91602

NOTICE OF RIGHT TO FILE OBJECTIONS

Any party adversely affected by this Proposed Decision has the right to file written exceptions within fifteen days of receipt of the decision; parties may file written responses to the exceptions within fifteen days of receipt of the exceptions. Both the exceptions and the responses shall be filed with the Maryland State Department of Education, c/o Sheila Cox, Maryland State Board of Education, 200 West Baltimore Street, Baltimore, Maryland 21201-2595, with a copy to the other party or parties. COMAR 13A.01.05.07F. The Office of Administrative Hearings is not a party to any review process.

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BOARD OF EDUCATION OF

ANNE ARUNDEL COUNTY

* BEFORE T. AUSTIN MURPHY,

* AN ADMINISTRATIVE LAW JUDGE

* OF THE MARYLAND OFFICE

* OF ADMINISTRATIVE HEARINGS

* OAH NO.: MSDE-BE-09-07-28837

* * * * *

FILE EXHIBIT LIST

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