CLARKSBURG CIVIC ASSOCIATION,	BEFORE THE
Appellant	MARYLAND
v.	STATE BOARD
MONTGOMERY COUNTY BOARD OF EDUCATION,	OF EDUCATION
	Opinion No. 07-34
Appellee	

OPINION

This appeal, which is related to the appeal of *Joan and Michael Taylor, et al. v. Montgomery County Board of Education*, MSBE Opinion No. 07-32, challenges the Montgomery County Board of Education's approval of the Superintendent's Recommended Fiscal Year 2008 Operating Budget which will result in the phase out of the secondary learning centers (SLCs), the closure of the Kingsley Wilderness Project, and an increase in student fees. The local board has filed a Motion to Dismiss maintaining that the Clarksburg Civic Association (CCA) lacks standing to bring this appeal. The CCA has filed an opposition to the local board's motion.

FACTUAL BACKGROUND

Secondary Learning Centers

Montgomery County Public Schools (MCPS) operates secondary learning centers which provide middle and high school students with disabilities special education services in self contained settings, separate and apart from their peers in regular education classrooms. In December 2006, the local Superintendent, Jerry D. Weast, proposed to change the delivery of special education services in MCPS through a three year plan to phase out the SLCs. After receiving public input, Dr. Weast revisited his initial proposal and developed a revised phase out proposal which was publicized on or about January 18, 2007.

On February 13, 2007, the local board adopted the Superintendent's Recommended FY 2008 Operating Budget. The budget reflected various staffing changes that will occur during the 2007-2008 school year as the SLC phase out begins. (Superintendent's Recommended FY 2008 Operating Budget, Chapter 4-33). On June 12, 2007, the local board adopted the final FY 2008 Operating Budget. (Meeting Minutes, 6/12/07).

Kingsley Wilderness Project

The Kingsley Wilderness Project is one of several alternative programs that MCPS operates for at-risk students. It is a countywide program with no attendance boundary. Because there was no appropriation in the Superintendent's Recommended FY 2008 Operating Budget for Kingsley, the local board's adoption of the recommended budget on February 13, 2007 resulted in the discontinuation of this program.

Student Fee Increase

On February 13, 2007, the local board amended the Superintendent's Recommended Operating Budget to provide funding for junior varsity lacrosse by offsetting the cost of this additional program with an increase in the high school parking fee from $50 to $75 per year and an increase in the extracurricular activity fee from $20 to $30 per year. The student activity fee applies only to those middle and high school students who participate in extracurricular activities. The student parking fee applies only to those high school students who park on school grounds. (Regulation ECG-RA(III)(D)).

Clarksburg Civic Association

Based on the scant information that CCA provides about itself in the appeal materials, the organization appears to be a civic group in the Clarksburg area. It identifies itself as being comprised of residents of Montgomery County and "parents of children who attend Montgomery County Public Schools." (Letter to State Board, 3/13/07). It states that it represents "the interests of the Clarksburg community at large" before agencies and organizations, but that its representation of interests "is neither limited to a particular group of community members nor exclusive of smaller communities within the Clarksburg area." (Letter to State Board, 5/19/07).

ANALYSIS

Standing

The local board maintains that the appeal should be dismissed because Appellant lacks standing. As the State Board noted in *Adams, et al. v. Montgomery County Board of Education*, 3 Op. MSBE 143, 149 (1983), the general rule on standing is that "for an individual to have standing, even before an administrative agency, he must show some direct interest or 'injury in fact, economic or otherwise'." *See also Schwalm v. Montgomery County Board of Education,* MSBE Opinion No. 00-10 (February 23, 2000); *Vera v. Board of Education of Montgomery County*, 7 Op. MSBE 251 (1996); *Way v. Howard County Board of Education*, 5 Op. MSBE 349 (1989). This showing of a direct interest or injury in fact requires that the individual be personally and specially affected in a way different from the public generally and is, therefore, aggrieved by the final decision of the administrative agency. *See Bryniarski v. Montgomery*

County Bd. of Appeals, 247 Md. 137, 144 (1967).

Although the State Board has not specifically ruled on the standing of an organization like the CCA, the State Board has previously mentioned standing as it relates to civic organizations and has also explained standing as it pertains to homeowners' associations. In *Adams*, the State Board originally explained that in future appeals concerning school closings and consolidations as well as student redistricting and assignment plans, "municipalities, committees, and other unincorporated associations will have the burden of showing they have a direct interest of their own – separate and distinct from that of their individual members – which might be affected by the particular appeal."[1] 3 Op. MSBE at 149. Several years later, the State Board espoused a more liberal interpretation of the standing requirement in *Stratford Woods Home Owners' Association, Inc. v. Montgomery County Board of Education*, 6 Op. MSBE 238 (1992). The Board stated in *Stratford*:

> We find that the home owners' association has standing to bring this appeal because it represents the interests of association parents who have elementary school children in, or pre-school children who will be in, the affected schools. To this extent we modify the opinion rendered in *Adams, et al. v. Montgomery County Board of Education*, 3 Op. MSBE 143 (1983).

Id. See also Dorchester Neighborhood Association, et al v. Charles County Board of Education, MSBE Opinion No. 99-10. Thus, *Stratford* eliminated the requirement suggested in *Adams* that homeowners' associations demonstrate a direct interest of their own, separate and distinct from that of their individual members.

Applying these principles to the case at hand, we find that the CCA lacks standing to appeal the issues in this case because the CCA has provided no evidence that it or its members have a direct interest in the local board's decision. Unlike the State Board cases that have conferred standing on home owners' associations to challenge redistricting decisions of a local board, CCA has not alleged that its members are parents of a clearly definable group of students affected by the local board's decision. For example, CCA does not state that its members are parents of special education students who are impacted by the phasing out of the SLCs, parents of students enrolled in the Kingsley Wilderness Project, or parents of middle or high school students subject to the student activity fee or student parking fee.

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[1]In *Adams,* several unincorporated communities and associations attempted to intervene in a school redistricting. Because the State Board decided the case on the merits, the Board found it unnecessary to actually strike from the appeal the remaining intervenors of unincorporated associations, committees, municipalities, and individuals who did not have elementary school or pre-school children affected by the local board's actions.

CONCLUSION

We conclude that the CCA lacks standing to bring this appeal as it has not demonstrated a direct interest or injury in fact in its own right or on behalf of its members. Accordingly, this appeal is dismissed.[2]

Dunbar Brooks
President

Beverly A. Cooper
Vice President

Lelia T. Allen

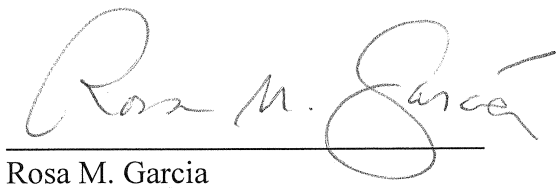
J. Henry Butta

Charlene M. Dukes

Blair G. Ewing

Mary Kay Finan

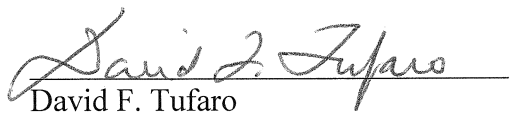
[2]Although we dismiss this case, the same issues raised by the CCA are addressed on the merits in *Joan and Michael Taylor, et al. v. Montgomery County Board of Education*, MSBE Opinion No. 07-32.



Rosa M. Garcia

Richard L. Goodall

Karabelle Pizzigati



David F. Tufaro

August 29, 2007