

ANGELIQUE W.,

Appellant

v.

HOWARD COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 10-44

OPINION

INTRODUCTION

In this appeal, Appellant challenges the decision of the Howard County Board of Education (local board) upholding the withdrawal of her children from Bonnie Branch Middle School and Phelps Luck Elementary School in Howard County based on a failure to establish residency in the respective geographic attendance areas. The local board has filed a Motion for Summary Affirmance maintaining that its decision is not arbitrary, unreasonable or illegal. The Appellant did not respond to the Motion.

FACTUAL BACKGROUND

The Appellant has two children who have been attending public school in Howard County. At the start of the 2009-2010 school year, J.W. was in the sixth grade at Bonnie Branch Middle School ("Bonnie Branch") and K.W. was in the first grade at Phelps Luck Elementary School ("Phelps Luck"). The children were enrolled at those schools based on a home address on Tilted Stone in Columbia. The Emergency Procedure Information forms completed by the Appellant for both schools at the start of the 2009-2010 school year stated that the girls lived with both parents at the Tilted Stone address.

School administrators began investigating the Appellant's residency status when J.W.'s bus driver became suspicious after noticing the Appellant drive J.W. to the bus stop coming from the direction of a different school attendance area. (Local Bd. Decision). Linda Martin, Pupil Personnel Worker, in conjunction with Kevin Burnett, Special Investigator, conducted a residency investigation and discovered the following information:

- Motor Vehicle Administration (MVA) records list both the Appellant and her husband as living at the Hidden Cove address in Columbia. The Hidden Cove address is not in the attendance area for Bonnie Branch and Phelps Luck.
- Accurint, an online search tool, lists both parents at the Hidden Cove address. Accurint also lists the Appellant at the Titled Stone address.

- MVA records list two vehicles, a Chrysler and a Ford Expedition, registered to the Appellant's husband at the Hidden Cove address.
- Appellant's parents live at the Tilted Stone address, the address on record with the school system.
- The Hidden Cove home is owned by the Adolphs. The Adolphs stated that the Appellant, her husband, and their daughters reside at the address. They stated that the Appellant and her husband had recently signed a lease renewal for an additional year.
- On October 19, 2009, Ms. Martin observed the Tilted Stone address from 7:07-7:45 a.m. Neither vehicle was parked at the address. Ms. Martin did not observe anyone entering or exiting the home.
- On October 20, 2009, Ms. Martin observed the Tilted Stone address from 7:12-7:34 a.m. Neither vehicle was parked at the address. Ms. Martin did not observe anyone entering or exiting the home. She drove to the bus stop for Bonnie Branch, located at Luckpenny Place and Emberbed Terrace, and observed the Ford Expedition parked there. J.W. exited the vehicle and boarded the bus at 7:46 a.m.
- On October 21, 2009, Ms. Martin observed the Tilted Stone address from 7:09-7:30 a.m. Neither vehicle was parked at the address. She drove to the bus stop and observed the Chrysler entering Emberbed Terrace on the south end to drop J.W. off at the bus stop.
- On October 22, 2009, Ms. Martin observed the Hidden Cove address beginning at 7:12 a.m. She observed the Appellant and her daughters exit the residence and take the Ford Expedition to the bus stop.
- On October 23, 2009, Ms. Martin observed the Hidden Cove address beginning at 7:10 a.m. She observed both vehicles parked in the lot near the residence. There was condensation on the windows, suggesting that the cars had been there overnight. At 7:34 a.m. the Appellant and her daughters exited the home and took the Ford Expedition to the bus stop.
- On October 26, 2009, Ms. Martin did not observe either vehicle parked at the Tilted Stone address.
- On October 28, 2009, Ms. Martin observed the Hidden Cove address beginning at 7:23 a.m. Both vehicles were parked in the lot near the residence. At 7:37 a.m., Ms. Martin observed Appellant's husband and the children exit the home and take

the Chrysler to the bus stop.

- On October 29, 2009, Ms. Martin observed the entire family exit the Hidden Cove address at 7:23 a.m. Appellant and her daughters got into the Chrysler and drove to the bus stop.
- On October 30, 2009, Ms. Martin observed both vehicles parked in the lot at the Hidden Cove address at 7:12 a.m. She observed the Appellant and her daughters exit the residence and get into the Chrysler. Ms. Martin then went to the bus stop. She did not see the vehicle, nor did she see J.W. get on the bus. After the bus left, she saw the Chrysler, with both girls visible in the back seat, exiting a parking lot near the bus stop. Ms. Martin confirmed with Bonnie Branch that the Appellant, driving the Chrysler, dropped J.W. off at school at 7:57 a.m.
- On November 3, 2009, Ms. Martin and Mr. Burnett worked in tandem. Ms. Martin did not observe either vehicle at the Tilted Stone address at 7:10 a.m. Mr. Burnett, however, observed the Appellant and her daughters exit the home at Hidden Cove and enter the Ford Expedition around 7:40 a.m. Meanwhile, Ms. Martin waited at the Bonnie Branch bus stop until 7:52 a.m. The Appellant did not arrive. Ms. Martin confirmed with Bonnie Branch that the Appellant, driving the Ford Expedition, had dropped J.W. off at school at 7:57 a.m.
- On November 10, 2009, Mr. Burnett observed both vehicles parked at the Hidden Cove address at 6:45 a.m. He observed the Appellant and her daughters exit the home and get into the Ford Expedition. He later saw them at the Bonnie Branch bus stop.

(Burnett Surveillance Report, 11/10/09; Martin Investigation Report, 12/1/09).

By letters dated November 11, 2009, the principals of Bonnie Branch and Phelps Luck advised the Appellant that her children were no longer eligible to attend the schools based on the belief that they were not residing at the Tilted Stone address. (Jameson Letter, 11/11/09; Akers Letter, 11/11/09). Three days later, on November 14, 2009, the Appellant changed the address on her driver's license to reflect the Tilted Lane address.

Appellant appealed the residency decision to Ms. Pamela Blackwell, Director of Student Services. (Appellant's Letter of Appeal, 11/13/09). In her letter of appeal, the Appellant maintained that she has lived with her parents at the Tilted Stone address since 1978, and that her daughters have lived there since birth. She also stated that she and her husband were separated five years ago, but that she and her daughters visit with him at the Hidden Cove address. (*Id.*).

Appellant met with Ms. Blackwell on December 10, 2009 to discuss the residency appeal. Appellant presented the following information at that conference:

- Appellant has always lived with her daughters at the Tilted Stone address;
- Appellant's husband resides at the Hidden Cove address and his name is the only one on the lease. Appellant has never lived there;
- Appellant's children were registered at their schools based on a Multiple Family Disclosure form bearing the Tilted Stone address signed by the Appellant on August 7, 2007. Appellant's mother is named as the host of the family at the Tilted Stone address, and Appellant and her daughters are listed as the guest family;
- Copies of mail in Appellant's name at the Tilted Stone address which includes several pay stubs from Appellant's job at Staples, a NASA Federal Credit Union letter, and a PNC Bank account statement. None of the items reflect a date earlier than November 13, 2009; and
- Appellant's driver's license issued November 14, 2009, listing her at the Tilted Stone address.

(Blackwell Report, 12/14/09).

Ms. Blackwell determined that the Appellant and her children were not bona fide residents at the Tilted Stone address. She upheld the residency decision and advised the Appellant that her children would be withdrawn from Bonnie Branch and Phelps Luck on December 15, 2009, and enrolled in Guilford Elementary School and Cradlerock School, the schools serving the Hidden Cove address. (Blackwell Decision).

Appellant appealed Ms. Blackwell's decision to the local board. She made various claims to explain the results of the residency investigations. For example, she stated that she and her husband are still married, but that they live separately and the children visit him at the Hidden Cove residence. The Appellant also stated that, despite her earlier claim that her husband alone signed the lease, she signed the lease for the Hidden Cove address, but only to help her husband retain residence there because the landlords like to rent to families. The Appellant also submitted a notarized statement from her father, certifying that the Appellant and her daughters have lived continuously with him and his wife at the Tilted Stone address for the past five years, as well as statements from some neighbors on Tilted Stone and appellant's brother-in-law, that they have observed the Appellant's father drive J.W. and K.W. to school on weekday mornings for several years. Appellant also submitted a notarized "Temporary Guardianship Agreement" granting temporary custody of the children to Appellant's parents "for as long as necessary, beginning on January 6, 2010."

The local board upheld the residency decision finding that the totality of the information supported a finding that the Appellant and her daughters did not reside at the Tilted Stone address. (Local Board Decision). In sum, the local board found that the Appellants case lacked

evidence and contained too many inconsistencies to rebut the investigation findings.

This appeal followed.

STANDARD OF REVIEW

Because this is a case involving local board policy and procedures, the local board's decision is considered *prima facie* correct and the State Board will not substitute its judgment for that of the local board unless its decision is arbitrary, unreasonable or illegal. COMAR 13A.01.05.05A.

ANALYSIS

Each local board of education establishes the geographical attendance area for the public schools within its jurisdiction. Md. Code Ann., Educ. §4-109(c). Like the other jurisdictions in Maryland, Howard County requires students to attend the school designated to serve the attendance area in which the parents have bona fide residence. Local Bd. Policy 9000.IV.H.2. Bona fide residence is the person's actual residence maintained in good faith, and not a temporary residence or a superficial residence established for the purpose of attendance in Howard County Public Schools. Local Bd. Policy 9000.III.A.

Appellant's children were enrolled at Bonnie Branch and Phelps Luck based on a Multiple Family Disclosure form indicating that they lived with the Appellant's parents at the Tilted Lane address.¹ Pursuant to local board policy, parents enrolling their children in school based on multiple family residency must provide photo identification and two proofs of residency, including but not limited to a pay stub, Post Office change of address label, credit card statement, tax statement, or bank statement. Policy 9000-PR.II.C.2. The parent must provide two recent proofs of residency to the school at the beginning of each school year for as long as the multiple living situation continues, or the student will be withdrawn from school. (*Id.*). The policy also states that multiple family residency is subject to investigation at any time. (*Id.*).

At issue in this case is whether the Appellant and her children resided in the Bonnie Branch and Phelps Luck attendance zone when the 2009-2010 school year began. Based on our review of the evidence in this case, we do not believe that the Appellant has created a presumption of residency under the school system's residency policy. Although the above-referenced policy requires two proofs of residency at the start of the school year, the record does not reflect that Appellant submitted any documentation of residency dated prior to or at the start of the 2009-2010 school year. Rather, the documents submitted in the residency appeal consist of various items, dated after November 11, 2009, the date the residency issue was brought to

¹The record does not contain the evidence of residency provided at the time of enrollment. Nor does it contain information on any annual updates throughout the years Appellant's daughters were enrolled in school.

Appellant's attention.

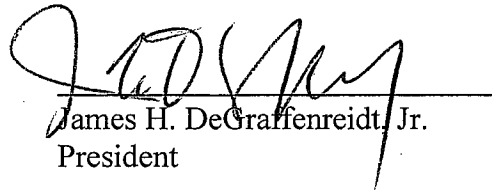
As is the usual practice in these sorts of cases, the school system conducted a residency investigation that included surveillance of both the Tilted Stone and Hidden Cove residences on various dates during a one month period. The investigation was thorough. On each the five of the observation dates at the Tilted Stone address, investigators did not observe the Appellant or her children, yet confirmed that the student was either dropped at the bus stop or at school. The investigators observed the Appellant, and on one occasion her husband, with the children leaving the Hidden Cove address to go to the bus stop or school on each of the seven observation dates.

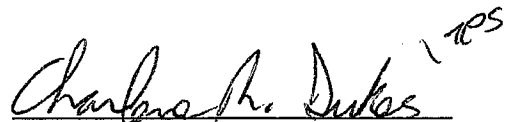
Appellant's case is a bundle of contradictions. On the one hand, Appellant maintains that she has always lived with her parents at the Tilted Stone address. She also submitted a notarized statement from her father attesting that Appellant and her daughters have lived continuously with him for the past five years. On the other hand, the Appellant's driver's license has reflected the Hidden Cove address since February 2007, the same date her husband changed his license to reflect that address, even though Appellant claims the two were already separated. Appellant only recently changed her license to reflect the Tilted Stone address after she was advised the girls would be removed from their schools due to residency issues. In addition, Appellant has not been able to produce any mail or other documentation in her name reflecting the Tilted Stone address dated prior to November 2009.

Given the totality of the evidence in this case, we believe that the local board reasonably concluded that the Appellant's children did not actually reside at the Tilted Lane address at the start of the 2009-2010 school year.

CONCLUSION

For these reasons, we affirm the decision of the local board.


James H. DeGraffenreidt, Jr.
President


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Vice President


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ABSENT
Ivan C.A. Walks

Kate Walsh
Kate Walsh

October 26, 2010