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COMMONWEALTH OF MASSACHUSETTS

ESSEX, SS.

PROBATE AND FAMILY COURT  
SALEM DIVISION  
DOCKET NO. 05E-0026-GC1

FEOFFEES OF THE GRAMMAR SCHOOL  
IN THE TOWN OF IPSWICH,  
Plaintiffs

v.

TOWN OF IPSWICH PUBLIC SCHOOLS  
AND THE ATTORNEY GENERAL OF THE  
COMMONWEALTH OF MASSACHUSETTS,  
Defendants

STIPULATION AND REQUEST FOR INSTRUCTIONS

Now come the Parties in the above-entitled matter and hereby stipulate and agree as follows:

1. That equitable relief pursuant to M.G.L. Chapter 215, Section 6 in the form of instructions from this Honorable Court is needed regarding the authority of the Plaintiffs to borrow funds as necessary to complete certain construction projects as mandated by the Commonwealth of Massachusetts and the Town of Ipswich;
2. That the Feoffees of the Grammar School in the Town of Ipswich (hereinafter "Plaintiffs") exist under a trust created by a vote of the Town Meeting in November, 1650.
3. That the land in Ipswich commonly known as "Little Neck" was devised to the Plaintiffs by the Last Will of William Paine, who died in 1660 (Suffolk Probate Court 1:346). The Will stated that the devise was "unto the free scoole of Ipswich

EXHIBIT

77 46

the little neck of land at Ipswich for ever as I have formerly intended and therefore for the sayd land not be sould nor wasted."

4. That subsequently Chapter 5 of the Province Laws of 1765-66 established the terms for the management and use of the Plaintiffs' property for the exclusive benefit of the Ipswich Public Schools.
5. That the Plaintiffs rent 167 parcels of land on which tenants have constructed single family dwellings, the net rent proceeds for which are distributed on an annual basis to the Ipswich Public Schools, in accordance with Chapter 5.
6. That the Plaintiffs, in order to comply with the Administrative Consent Order with the Massachusetts Department of Environmental Protection and the Massachusetts Clean Waters Act, M.G.L. Chapter 21, Sections 26-53, must construct a common wastewater collection system with an estimated project cost of \$6.483 million dollars;
7. That if the work is not completed by the end of 2005, the Plaintiffs will not be able to rent lots to the tenants at Little Neck, resulting in a substantial loss of income for Ipswich Public Schools;
8. That the Plaintiffs, in order to comply with an Order from the Department of Public Utilities of the Town of Ipswich that the electrical distribution network on Little Neck must be upgraded at an estimated project cost of \$535,000.00;

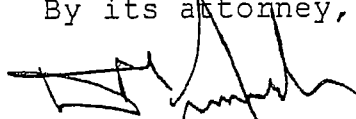
9. That this electrical work, if not completed, could affect the safety and welfare of the Little Neck tenants;
10. That pursuant to Section 1 of Chapter 5 of the Province Laws of 1765-66, as made perpetual by Chapter 54 of the Acts of 1786, the Plaintiffs were granted the power "in general, to transact and order all matters and things relative to said school, and to all the lands, grants, rent and annuities that do now, or that hereafter, belong to said school, arising from the donations aforesaid, so as to best answer the general design and interest thereof;"
11. That the Plaintiffs cannot pay these costs to complete the work required by the DEP and the Town and are therefore required to borrow the required funds from one or more commercial lenders;
12. That borrowing said funds without assigning or granting a security interest in the Little Neck land will not be a prohibition of the William Paine bequest against the sale of the property and is acceptable to Ipswich Public Schools;
13. That the Plaintiffs do possess the implied authority under the trust to borrow money upon reasonable terms not involving the assignment of the land or the granting of a security interest in the land, all as necessary to fulfill the purpose of the trust;
14. That the Plaintiffs, in order to complete said work and fulfill its implied authority under the trust, will be

required to give security to commercial lenders in the nature of customary commercial loan documents not involving the assignment of the land or the granting of a security interest in the land, such as, but not limited to, conditional assignments of leases and rents, conditional assignments of betterment fees (or other income from the tenants for the wastewater project) and conditional assignments of the contracts and permits for the projects, which would provide that in the event of a default by the Plaintiffs, the lenders would have the authority to complete the project, collect the rents and otherwise manage the property to protect the lenders' interest and secure the repayment of the debt;

15. That the Plaintiffs have the implied right to borrow money and grant security interests in the leases and rents, betterment fees, contracts and permits;
16. That the Plaintiffs have advised the Ipswich Public Schools that the cost of the electrical system project will be borne by the Plaintiffs, since it relates to an essential service which has been customarily supplied by the Plaintiff to its tenants;
17. That the Plaintiffs have advised the Ipswich Public Schools that the costs of the wastewater project will be paid solely by the tenants, as they have customarily been responsible for all costs for septic management for their dwellings;

18. That it is agreed that the ability of the Plaintiffs to borrow the necessary funds from commercial lenders to complete these projects on a timely basis will or may affect the benefits to be paid to Ipswich Public Schools.

Respectfully submitted,  
Feoffees of the Grammar  
School in the  
Town of Ipswich  
By its attorney,




Date: August 1st, 2005

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Town of Ipswich  
Public Schools  
By its attorney,

Date: August 1st, 2005

  
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