

COMMONWEALTH OF MASSACHUSETTS

ESSEX, SS.

PROBATE & FAMILY COURT
NO. ES09E0094QC

ALEXANDER B.C. MULHOLLAND, JR,)
et al.,)
)
)
Plaintiffs,)
)
v.)
)
ATTORNEY GENERAL of the)
Commonwealth of Massachusetts, et al.;)
)
Defendants)

DEFENDANTS' OPPOSITION TO MOTION TO INTERVENE

The Defendants, Ipswich School Committee and Richard Korb (the "School Committee"), hereby oppose the motion to intervene of Ipswich citizen Douglas DeAngelis ("DeAngelis") on the ground that under settled law, DeAngelis lacks standing to be a party in this case. In support of this Opposition the School Committee states as follows:

1. The Attorney General is entrusted with responsibility for the oversight of charities, 12 M.G.L. § 8. Case law establishes that apart from the Attorney General, a party has standing to challenge the operation of a charity only where that party holds interests "distinct from those of the general public." See *Weaver v. Wood*, 425 Mass. 270, 275-276 (1997); *Garland v. Beverly Hosp. Corp.*, 48 Mass. App. Ct. 913, 914 (1999).
2. An attorney from the Office of the Attorney General, the public officer charged with overseeing the trust in issue, has attended the trial, scrutinized the sale and agreed to its terms in open court on December 20, 2011.

3. DeAngelis, a private citizen of Ipswich, now seeks to intervene to assert the position that the proposed settlement and sale is not warranted under the doctrine of equitable deviation and/or is unfair. Unlike the School Committee and Richard Korb, the entities that directly receive and rely upon the funds from the trust, DeAngelis merely claims that he is a resident of Little Neck who has a child who will be eligible to attend school next year in Ipswich. This is an indirect, tangential interest, not a claimed interest “distinct from [that] of the general public.” *Weaver*, 425 Mass. at 276. Every other member of the public with a school-aged child who may enter the Ipswich schools has this same generalized interest. It is not a sufficient interest in the trust to permit DeAngelis to usurp the role of the Attorney General.

4. *Garland v. Beverly Hosp. Corp.*, 48 Mass. App. Ct. 913, 914 (1999) is controlling. There a trust left funds for the establishment of the Addison Gilbert Hospital for the explicit purpose of serving the residents of Gloucester. The plaintiff, a hospital donor and resident of Gloucester, claimed standing to challenge how hospital assets were being used following a merger of the hospital, in part based on a claim that the Attorney General was failing to police the charity properly. The Court held that “[n]either plaintiff’s residence nor his status as a donor confers upon him an interest in the [trust] sufficiently distinct from that of the general public to grant him standing.” *Garland*, 48 Mass. App. Ct. at 914. The same is true with respect to DeAngelis.

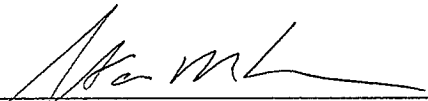
5. In *Weaver v. Wood*, *supra*, the court denied the standing of church members to challenge church actions, holding that the putative litigant must be asserting a personal right that directly affects the individual and sets him apart from other members of the public. Mr. DeAngelis claims no such personal right that sets him apart from other parents and residents in Ipswich. To the contrary, he merely asserts that he, “and many others like him have an interest

in ensuring that Little Neck is actually maintained in the Trust for the benefit of the Ipswich Public Schools” This allegation underscores that the interest he is seeking to assert is not a personalized interest, but a generalized interest shared with other members of the public.

6. Because case law clearly establishes DeAngelis’s lack of standing to challenge decisions concerning a public charity, his motion to intervene must be denied. The School Committee also notes, as argued by the Feoffees, that Mr. DeAngelis has failed to meet the other requirements of Rule 24.

WHEREFORE, the Defendants, the Ipswich School Committee and Richard Korb, respectfully request this Court to deny the motion to intervene of Ipswich resident Douglas DeAngelis.

Respectfully submitted,
IPSWICH SCHOOL COMMITTEE and
RICHARD KORB
By their attorneys,

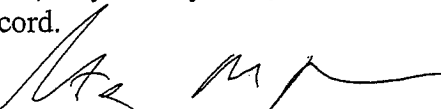


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Dated: December 23, 2011

CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2011, I caused a copy of the foregoing document to be served by first class mail upon Mark E. Swirbalus, Day Pittney LLP, One International Place, Boston, MA 02110 and upon all counsel of record.



Stephen M. Perry