

THE TRIAL COURT
PROBATE AND FAMILY COURT DEPARTMENT

ESSEX, ss

Docket No. ES09E0094QC

ALEXANDER B.C. MULHOLLAND, JR.,
PETER FOOTE, DONALD WHISTON, JAMES
FOLEY, ELIZABETH KILCOYNE, PATRICK
J. MCNALLY, and INGRID MILES, as they are
the Feoffees of the Grammar School in the Town
of Ipswich,

Plaintiffs,

v.

ATTORNEY GENERAL OF THE
COMMONWEALTH OF MASSACHUSETTS,
IPSWICH SCHOOL COMMITTEE, and
RICHARD KORB, as he is Superintendent of
Schools in the Town of Ipswich,

Defendants.

ESSEX, ss. PROBATE & FAMILY COURT

Feb. 06 20 *12*

~~allowed~~

The within action is hereby denied -

Justice of Probate & Family Court

MOTION TO INTERVENE

Pursuant to Rule 24(a) of the Massachusetts Rules of Civil Procedure, Douglas J.

DeAngelis hereby respectfully moves for leave to intervene as a party defendant in this action.

In support of this motion, Mr. DeAngelis states the following:

1. The Feoffees of the Grammar School in the Town of Ipswich seek in their complaint to deviate from the terms of the so-called Grammar School Trust, pursuant to which the Feoffees shall maintain the land in Ipswich known as "Little Neck" for the benefit of the Ipswich Public Schools. Also pursuant to the terms of the Trust, Little Neck cannot be sold or wasted.

2. On January 27, 2011, Mr. DeAngelis filed an amicus brief in opposition to the Feoffees' motion for partial summary judgment, in which the Feoffees sought authority to sell

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Feb. 06 2012

~~allowed~~

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**MOTION OF THE PROPOSED INTERVENERS TO STAY ENTRY OF JUDGMENT,
AND IN THE ALTERNATIVE, TO STAY THE JUDGMENT, PENDING THE
RESOLUTION OF THEIR MOTION TO INTERVENE**

The proposed interveners in this action, a group of parents of Ipswich Public School students and their children, who are beneficiaries of the trust of William Payne, have moved to intervene in this action, alleging various interests separate and distinct from those of the general public. Although they relied upon the public pronouncements of the School Committee that it would vigorously defend this case and prosecute the counterclaim, it is now clear that the School Committee will not vigorously defend the case and protect the interests of the beneficiaries of the Trust. Upon learning of the School Committee's abandonment of its defenses and counterclaim, the proposed interveners immediately sought intervention through a series of filings including a

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Feb. 06 2012

allowed

The within action is hereby denied -

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MOTION TO REPORT TO APPEALS COURT

Pursuant to Rule 64(a) of the Massachusetts Rules of Civil Procedure, the Applicants for Intervention (the "Interveners") respectfully request that this Honorable Court report following two questions to the Appeals Court:

1. Where the administration of the Trust is governed by statute (Chapter 26 of the Province Laws of 1755-56, as extended by Chapter 5 of the Province Laws of 1765-66, which was made "perpetual" by Chapter 54 of the Acts of 1786), and where the statute does not give the Feoffees authority to sell property, is legislative action required to deviate from the terms of the Trust to permit a sale of Little Neck?
2. Are the Interveners permitted to intervene in this action as a matter of right pursuant to Rule 24(a) of the Massachusetts Rules of Civil Procedure?