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**Maryland State Board of Education**  
**c/o Jackie C. La Fiandra, Assistant Attorney General**  
**Office of the Attorney General, Maryland State Department of Education**  
**200 St. Paul Place, 19th Floor**  
**Baltimore, Maryland 21202**

**Re: Concerned Citizens v**  
**Prince George's County Board of Education**

**Dear Ms. LaFiandra:**

This is an appeal submitted by citizens of Prince George's County.

### **APPELLANTS**

The lead appellant is Nehemiah's Vision, Inc., whose representative is Tonya V. Wingfield who resides in Upper Marlboro, Maryland.

Other appellants include, Johnny & Terry Williams of Bowie; Diane Edwards of Upper Marlboro; Janine Smith of Upper Marlboro; Keith Goodman of Upper Marlboro; Nathaniel Wheeler of Cheltenham; Janet Bellow of Capitol Heights, Cornell Johnson of District Heights, Valerie & Nick McDowell of Bowie; Doreen Seals of Suitland; Emma & Harry Andrews of Capitol Heights; Sunni Lovelace of Bowie; Verley Burton of Ft. Washington; Sandra James of Lanham; Sheila Kirskey of Bowie; Alfred Turner of Accokeek; Sydney Williams of Ft. Washington; Jerome & Debbie Williams of Ft. Washington; Shatia Humphrey of Accokeek.

All appellants are education stakeholders that reside in Prince George's County.

### **INTRODUCTION**

The Annotated Code of Maryland, Education Article §4-115(c) (1) (i) states:

*Except as provided in this paragraph, if, with the approval of the State Superintendent, a county board finds that any land, school site, or building no longer is needed for school purposes, it shall be transferred by the county board to the county commissioners or county council and may be used, sold, leased, or otherwise disposed of, except by gift, by the county commissioners or county council.*

On January 23, 2014, the Prince George's County Board of Education voted to declare Thomas Addison Elementary School as surplus and transfer this property to the county where it will be used for a recruiting and training facility for the Resort Hotel and Casino. What are in dispute is the validity of the school board's vote since the actions of Dr. Maxwell and his staff violated board bylaws and policies 9360, 8383, 8372 respectively as well as the Annotated Code of Maryland, Education Article §4-115(c) (1) (i). The following link will play the board meeting in its entirety. <http://www.youtube.com/watch?v=EG0Hce69pIE&list=PL4585E4C6234DE895&feature=share&index=2>

## **BACKGROUND**

### **1. This Item Should Not Have Been Placed On The Consent Agenda.**

First, the January school board meeting was held on January 23, 2014. The agenda included two Consent Agenda items, one of which was 8.02 *Declaration of Surplus for Property Identified as Thomas Addison Elementary School, 7100 Oxon Hill Road, Oxon Hill, Maryland*. Board Bylaw 9360 Consent Agenda reads:

*In addition to the regular Agenda for a Board meeting, there shall be a Consent Agenda, upon which the Chief Executive Officer may place items which are ministerial and administrative in nature, or which have previously been presented to the Board for review and discussion at a prior Board meeting and require Board action, pursuant to law.*

This item does not fall in the category of ministerial and administrative nor was it presented in a prior board meeting and therefore should not have been placed on the agenda as a Consent Agenda item.

Additionally, this was a decision to be made by the board and the bylaw 9360 contains language under First Reader, Second Reader and Emergencies explicitly states the process for decisions:

*Decisions of the Board of Education will follow the First Reader and Second Reader process unless adopted by a two-thirds (2/3) vote as an Emergency, in which event the matter does not require a Second Reader.*

This bylaw also states the following concerning the purpose of the second reader.

*Second Reader items may only be placed on a Board Meeting Agenda to maximize the opportunity for public comments at evening meetings.*

### **2. The Actions of Dr. Maxwell's Staff Was a Violation of State Law**

Second, Annotated Code of Maryland, Education Article §4-115(c) (1) (i) states:

*Except as provided in this paragraph, if, with the approval of the State Superintendent, a county board finds that any land, school site, or building no longer is needed for school purposes, it shall be transferred by the county board to the county commissioners or county council and may be used, sold, leased, or otherwise disposed of, except by gift, by the county commissioners or county council.*

Paragraph 6 of the Resolution presented at the board meeting that evening by Dr. Maxwell's office states:

***WHEREAS***, *staff recommends the Board of Education declare the property surplus and that it be transferred to the County Council pursuant to the aforementioned statute.*

Dr. Maxwell's introduction of this information as Consent Agenda Item 8.02 stated the request from the County Executive came directly to him on December 2, 2013. The presentation of details during the board meeting was done by Monica Goldson. At no time during the presentation was any information provided that indicated the local board had received the approval of the state superintendent or that any local board member was involved in determining

the property was no longer useful for school purposes. The law would suggest that void of the state superintendent's approval, the vote on January 23, 2014 was not a legal action the board can take.

### **3. There Is A Question On Whether The Motion To Adopt This Resolution Passed.**

Third, Board Bylaw 9360 Under Consent Agenda states:

*Prior to the adoption of the Consent Agenda, any item on the Consent Agenda may be automatically removed from the Consent Agenda by a Board Member for discussion. Any item pulled from the Consent Agenda shall be placed on the Non-Consent Agenda and discussed and voted upon separately. All items that remain on the Consent Agenda shall be voted on as a group and shall require an affirmative vote of the entire Board present at the meeting to approve Consent Agenda items.*

The Item in question was moved to the Non-Consent Agenda by Mr. Edward Burroughs to allow for discussion by board members. The board bylaw simply states that the vote for items moved to the Non-Consent Agenda is done separate from the Consent Agenda vote, but does not strike the need for an affirmative vote of the entire Board present at the meeting for the motion to pass. Thus it would appear that the vote for Item 8.02 failed as one member present abstained.

### **4. The Actions of Dr. Maxwell's Office Hindered the Local School Board From Identifying All Options For Potential Use of The Building.**

Paragraph 5 of the Resolution presented at the board meeting that evening by Dr. Maxwell's office states:

*WHEREAS, after careful review and study of the subject property, staff has determined that the property is not suitable for and has no value as an educational facility and PGCPs has no school-related purpose for the property; and*

If the process for transferring the property had be properly followed in accordance of state law, the local board would have had time to request that Dr. Maxwell's staff perform a thorough assessment and evaluation of this request that would have incorporated community input and a review similar actions by other counties in the state to ensure their final decision was in the best interest of the school system, students and the surrounding community.

Ms. Goldson asserted she had only held the COO position for 18 months and followed the procedure she seen used previously for direction. Dr. Maxwell, however, was the Superintendent of Schools for Anne Arundel County when a property transfer was done in 2011 and therefore should have known the proper procedure to follow in order to comply with the law. Moreover, regardless of how new Ms. Goldson and Dr. Maxwell are in their positions, they both have access to legal counsel that should have sought legal advice before proceeding.

Lastly, the school system spends a considerable amount of money annually renting venues such as the Camelot to hold in-service training for school employees. A thorough assessment and evaluation of Thomas Addison could have helped the school system to determine if the system could save money by converting Thomas Addison to their own recruiting and training facility.

## **5. This Action Gives the Appearance of Impropriety Which Further Erodes the Trust of the Office of the County Executive and Makes it Difficult for Elected Board Members to Work with Appointed Members and Administrative Personnel**

The Office of the County Executive bypassed the school board by directly sending the request to declare Thomas Addison surplus to Dr. Maxwell. The local government has access to legal counsel and therefore it was incumbent upon the local government to gain an understanding of the process that must be followed to have property transferred from the board of education to the county. The failure of the County to do so give the appearance of impropriety being that Dr. Maxwell was appointed by the County Executive, Rushern Baker. Mr. Baker's tactics in gaining control of Prince George's County Schools continue to be questioned. If the transfer of Thomas Addison Elementary is allowed under the action that took place on January 23, 2014, it will further erode the trust in Mr. Baker, his administration and anyone the public feels is associated with the dismantling of our fully elected school board. Moreover it sets the precedence that Dr. Maxwell will act at the urging of the County Executive and not the school board due to his loyalty to the person that appointed him. This would foster an atmosphere of insubordination between Dr. Maxwell and the school board which ultimately affects the quality of service the school system provides its customers which ultimately hurt the students they are obligated to serve.

### **CONCLUSION**

First, as discussed above the Resolution to declare Thomas Addison Elementary School surplus was neither ministerial and administrative nor had it been presented in a prior board meeting and thus should not have been added to the Consent Agenda on January 23, 2014. Second, Dr. Maxwell and his staff's actions to present this request to the board for a vote was in violation of the Annotated Code of Maryland, Education Article §4-115(c) (1) (i) in that 1) the recommendation was not the findings of the local school board and 2) it did not the approval of the state superintendent. Third, based on school board bylaws, the motion failed as there was not an affirmative vote of all board members present. Fourth, the actions of Dr. Maxwell and his COO, Monica Goldson hindered the local school board from identifying all options for potential use of the building that could benefit the school system. Fifth, the action gives the appearance of impropriety in that the despite having access to the law in writing and legal counsel for guidance and clarification on how to transfer the property, the Office of the County Executive chose to bypass the local school board which also disregarded the rights of citizens to participate in this decision.

Lastly, COMAR 13A.01.05.05 Standard of Review states:

*A. General. Decisions of a local board involving a local policy or a controversy and dispute regarding the rules and regulations of the local board shall be considered prima facie correct, and the State Board may not substitute its judgment for that of the local board unless the decision is arbitrary, unreasonable, or illegal.*

*B. A decision may be arbitrary or unreasonable if it is one or more of the following:*

*(1) It is contrary to sound educational policy; or*

*(2) A reasoning mind could not have reasonably reached the conclusion the local board or local superintendent reached.*

*C. A decision may be illegal if it is one or more of the following:*

- (1) Unconstitutional;*
- (2) Exceeds the statutory authority or jurisdiction of the local board;*
- (3) Misconstrues the law;*
- (4) Results from an unlawful procedure;*
- (5) Is an abuse of discretionary powers; or*
- (6) Is affected by any other error of law.*

The vote of January 23, 2014 and the actions leading to this vote fall within the scope of B1, C2, C3, C4, and C5. As such, the appellants request that the declaration of Thomas Addison as surplus and the transfer decision at issue be vacated and remanded to the local school board for further consideration of the merits and for effective involvement of the local communities. The appellants urge the State Board to act expeditiously as Dr. Maxwell clearly intends to proceed with this transfer without regard to its errors. All correspondence should be sent to Nehemiah's Vision, Inc. who will distribute the information to the other appellants.

Sincerely,



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