

SUPERIOR COURT OF DEKALB COUNTY
STATE OF GEORGIA

DeKalb County Public School System and)
The DeKalb Board of Education,)

Plaintiffs,)

Vs.)

The DeKalb County Development Authority,)

Defendant)

Civil Action No.
09CV7529-1

FIRST AMENDED COMPLAINT

NOW COMES the DeKalb County Public School System and the Board of Education for DeKalb County, by and through counsel, and file this, their Complaint, and show the Court as follows:

1.

The DeKalb County Public School System is the public school system for DeKalb County, Georgia.

2.

The DeKalb County Board of Education is the official policymaking body for the DeKalb County School System.

3.

The DeKalb County Development Authority (the "Development Authority") is a quasi-government entity created pursuant to Georgia Statute with the capacity to sue and to be sued in its own name, is subject to the jurisdiction and venue of this Court, and may

be served by delivery of the summons and complaint to Gregory Worthy, counsel for the Development Authority.

4.

The Sembler Company, a developer, is in the process of developing a mixed use project on real property located entirely in DeKalb County near Oglethorpe University, and in the process of that development, has entered into an agreement with the DeKalb County Development Authority to achieve a partial tax abatement on the development ("the Project").

5.

In December of 2008, the Superior Court of DeKalb County validated a proposed bond structure for the Project which allowed a partial tax abatement for the property being developed.

6.

Neither the School System nor the Board of Education were not consulted and did not consent to the proposed bond structure prior to votes by the Development Authority pursuant to which the Development Authority approved the proposed bond structure, nor were they consent to validation of the proposed bond structure.

7.

No bonds have yet been issued in connection with the proposed bond structure validated in December 2008.

8..

Sembler has advised the Authority that it will require an amendment to the validated bond structure to create a 100% tax abatement for twenty years on the property

being developed, otherwise Sembler will be financially unable to complete the development of the Project.

9.

The DeKalb Development Authority intended to vote on, June 18, 2009, on a proposed amendment to the validated bond structure, which if approved would have resulted in an increased tax abatement for the Project, and would have diverted away from the School System future tax revenues in the amount of approximately \$1,300,000 per year over the next twenty years, which otherwise would have been collected and used for the benefit of the students.

10.

On June 17, 2009, a majority of the Board of Education voted to retain the law firm of Federal & Hasson to seek a restraining order to prevent the DeKalb Development Authority from proceeding to vote on the proposed amendment to the bond structure on June 18, 2009. The original complaint in this action was filed that afternoon.

11.

On June 18, 2009, the Development Authority met and decided to temporarily delay the vote on the amended proposed bond structure pending the issuance of a policy through the DeKalb Office of Economic Development that would allow for graduated tax abatements on deals such as the Sembler Development based in part on the size of the development project.

12.

Once such a policy is adopted, the Development Authority intends to provide a further tax abatement on the Project through an amendment to the proposed bond structure as validated.

13.

The Development Authority does not intend to seek the consent or approval of the Board of Education and/or the School System prior to providing a further tax abatement on the Project, and this leaves the School Board and the Development Authority in a position of uncertainty with respect to future tax revenues to be realized from the property that is the subject of the Property.

14.

Even though it intends to amend the existing proposed bond structure, the Development Authority does not intend to seek a new validation order with respect to the amendments to the proposed bond structure, but intends to issue bonds pursuant to the existing validation order, even though the structure of the deal will have materially been altered.

15.

Any amendment to the existing proposed bond structure which provides a further tax abatement on the Sembler Project will have the effect of diverting additional future tax revenues away from being used by the School System for educational purposes.

COUNT 1
DECLARATORY JUDGMENT

16.

The proposed amendment to the validated bond structure will divert tax revenue away from the DeKalb Public School System in violation of the Georgia Constitution,

and Plaintiffs seek a declaration by the Courts as to the constitutionality of the proposed amended bond structure.

17.

The Dekalb Public School System and the Board of Education are uncertain as to whether the amended bond structure proposed by the Development Authority can be implemented without their consent, and request a declaration by the Court as to their rights and obligations under O.C.G.A. 36-80-16.1.

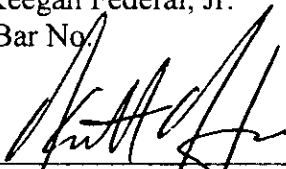
WHEREFORE, Plaintiff demands:

- (a) That Defendant be served with the Summons and Complaint in this matter as provided by law;
- (b) A declaration of the rights and obligations of the parties as requested herein;
- (c) Reasonable attorneys' fees and all costs of this litigation; and
- (d) Such other and further relief as the Court deems appropriate.

This, the 23rd day of June, 2009.

FEDERAL & HASSON, LLP

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CLERK OF SUPERIOR COURT
DEKALB COUNTY GEORGIA

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