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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT KETCHIKAN

KETCHIKAN GATEWAY BOROUGH, an Alaska municipal corporation and political subdivision; AGNES MORAN, an individual, on her own behalf and on behalf of her minor son; JOHN COSS, a minor; JOHN HARRINGTON, an individual; and DAVID SPOKELY, an individual;

Plaintiffs,

v.

STATE OF ALASKA; MICHAEL HANLEY, COMMISSIONER OF ALASKA DEPARTMENT OF EDUCATION AND EARLY DEVELOPMENT, in his official capacity;

Defendants.

FILED in the Trial Courts
State of Alaska First District
at Ketchikan

FEB 09 2015

Clerk of the Trial Courts

By _____ Deputy

Case No. 1KE-14-0016 CI

AFFIDAVIT OF DAN BOCKHORST

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

I, Dan Bockhorst, being first duly sworn, state as follows:

1. I am the Borough Manager for Plaintiff Ketchikan Gateway Borough (Borough) in the above-entitled action. I have

KGB et al. v. SOA et al.
1KE-14-0016 CI
AFFIDAVIT OF DAN BOCKHORST.

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held that position for more than seven years.

2. I have personal knowledge of and am competent to testify as to the information in this affidavit.

3. If the RLC is in effect for the fiscal year beginning July 1, 2015, then the Borough will be required to make an RLC payment in an amount equal to 2.65 mills on the full and true value of all taxable property in the Borough as determined by the Department of Commerce, Community and Economic Development under AS 14.17.510. Based on the 2015 preliminary assessment roll prepared by the Borough Assessor, it would be necessary for the Borough Assembly to levy an areawide property tax of 3.5 mills to generate sufficient funds to pay the 2.65-mill RLC calculated under AS 14.17.510. The Borough Taxpayer Plaintiffs will be required to pay an allocated portion of the taxes levied by the Borough to generate the funds to make this payment. The Borough levies these taxes by June 15 of each year to comply with AS 29.45.240.

4. Additionally, the Borough does not have a record database which would facilitate refund of the taxes levied and collected to make the RLC payment to the persons who paid them. Some property owners will likely die, or sell their

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3 property to other persons in the interim. To the extent the
4 funds are derived from sales taxes, the taxes are remitted
5 by the merchants with no tracking of the individual
6 taxpayers. Thus, it is not possible to refund taxes to the
7 parties who paid them.

8 5. During the current fiscal year the Borough appropriated
9 \$4,438,076 in taxpayer funds to pay the RLC under AS
10 14.17.410(b)(2). In addition the Borough appropriated
11 \$3,460,924 in voluntary local contributions to education
12 under AS 14.17.410(c)(2). The total of local cash
13 contributions under AS 14.17.410 authorized by the Assembly
14 for FY 2015 was \$7,899,000. The voluntary local
15 contributions by the Borough totaled \$2,751,086 less than
16 the maximum limit of 23% of basic need.
17

18 6. Under the limitations in AS 14.17.410(c), the Borough can
19 make a maximum voluntary local contribution to the District
20 of 23% of the District basic need, or \$ 6,212,010 in FY 2015
21 for example. The \$7,899,000 paid was \$1,686,990 more than
22 the maximum voluntary contribution.

23 7. Taking the FY 2015 numbers as an example, if the Borough
24 were compelled by a stay to pay its normal RLC and voluntary
25 contribution, and subsequently the State were compelled to
26

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AFFIDAVIT OF DAN ROCKHORST -

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eliminate the deduction for the RLC because Plaintiffs prevailed at the Supreme Court, the Borough would have provided \$ 4,438,076 more to the district than the total amount it had intended. The district might retain \$2,751,086 of this as additional voluntary contributions, and the remaining \$1,686,990 of this amount would be in excess of voluntary contributions. Under existing policies the DEED would deduct these "excessive" contributions from the State Aid under AS 14.17.410. Thus, the Borough would never receive a refund.

8. Even if the State were to make adjustments to underpayment to the district for prior years under AS 14.17.610(b) - effectively paying the amount of the improperly deducted RLC to the district, this same mechanism would divert a large portion of these funds back to the State such that the Borough would never see them.

9. The Borough would be harmed by being compelled to make RLC payments during the life of the stay. This harm would continue each fiscal year until the stay is dissolved.

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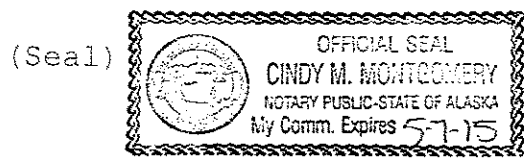
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EXECUTED at Ketchikan, Alaska, this 6th day of February, 2015.

KETCHIKAN GATEWAY BOROUGH

By: *Dan Bockhorst*
Dan Bockhorst
Borough Manager

SUBSCRIBED AND SWORN to before me this 6th day of February, 2015.



Cindy M. Montgomery
Notary Public for Alaska
My commission expires: 5-7-15

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AFFIDAVIT OF DAN BOCKHORST -
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I hereby certify that the annexed instrument
is a true and correct copy of the original on
file in my office.
ATTEST: *J. W. [Signature]*
CLERK - TRIAL COURTS
State of Alaska
at Ketchikan