

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION
STATE CHARTER SCHOOL APPEAL BOARD**

In Re: Propel Charter School - Montour :
Appeal from Denial of Charter : **Docket No. CAB 2006-04**
by Montour School District :

OPINION AND ORDER

I. Introduction

This matter is before the Charter School Appeal Board (“CAB”) on remand from the Commonwealth Court of Pennsylvania. Montour School District v. Propel Charter School-Montour, 889 A.2d 682 (Pa. Cmwlth. 2006). The Commonwealth Court remanded the matter in order for CAB to hear evidence of a new facility proposed to be used by Propel Charter School-Montour (“Propel”). The original facility listed in Propel’s charter school application to the School Board of Montour School District (“School District”) became unavailable immediately before the hearing on Propel’s appeal to CAB from denial of its charter application by the School District. CAB refused to allow Propel to present evidence regarding the new facility and, in a decision issued on February 28, 2005, granted Propel’s appeal and ordered the School District to issue a charter. That decision was appealed by the School District on four grounds. In its decision of January 4, 2006, the Court rejected the grounds for the appeal with the exception of the allegation that CAB had erred in granting the appeal absent an identified location for the school. The Court thus vacated CAB’s prior decision and remanded the appeal to CAB to hear evidence about the new site and determine whether it is suitable under the Charter School Law (CSL).¹ Propel initially filed a Petition for Allocatur with the Pennsylvania Supreme Court at 46

¹Act of March 10, 1949, P.L. 30, added by the Act of June 19, 1997, P.L. 225, 24 P.S. §§17-1701-A through 1732-A.

WAL 2006. That petition was ultimately withdrawn and Propel sought a hearing before CAB. The matter of Propel's new facility was heard by the CAB at its June 27, 2006 meeting.

II. Findings Of Fact

1. Findings of fact 1 through 20 and 25 through 29 of CAB's February 28, 2005 Opinion and Order in Docket No. CAB 2004-3 are reaffirmed and incorporated herein as if fully set forth.

2. The remanded hearing before CAB regarding the facility to be used by Propel occurred on June 27, 2006.

3. At that hearing Propel presented documentary evidence concerning the new facility that it proposed to use and how that facility met the requirements of the CSL. (N.T. 35, Exhibit - Tabs A – E)²

4. The new proposed site is located at 340 Bilmar Drive, Coraopolis, PA. (Exhibit – Tab A).

5. The 340 Bilmore Drive facility is owned by JG Direct Marketing, Inc., which is negotiating with Propel to lease the facility to Propel for use as a charter school. (Exhibit – Tab B).

6. Propel also provided information that the building was appropriately zoned for school use and that Propel had plans to make necessary renovations to the facility so that it could be used as a school. (Exhibit – Tabs C, D, E).

7. Counsel for the School District did not object to any of the documentary evidence submitted by Propel. (N.T. 36).

² References to the notes of testimony of the June 27, 2006 hearing are identified as N.T. Page(s). References to Propel's submission are identified Exhibit–Tab.

III. Conclusions Of Law

1. Conclusions of Law 1 through 4, 6 and 7 of CAB's February 28, 2005 Opinion and Order in Docket No. CAB 2004-3 are reaffirmed and incorporated herein as if fully set forth.

2. The facility requirements of the CSL are that the charter applicant provide a description and the address of the proposed facility to be used for the school, its ownership and any lease arrangements. 24 P.S. §17-1719-A(11).

3. The documentary evidence submitted by Propel at the remand hearing contained sufficient information to meet the requirements of Section 1719-A (11) of the CSL, regarding the suitability of the new facility.

IV. Discussion

At the time of the Application and the decision of the School Board, Propel had a written commitment to lease a former office building as a school site. However, information was provided at the CAB meeting of September 28, 2004 that Propel had shortly before the meeting lost the facility proposed in its application. This is an unfortunate circumstance but CAB and the Commonwealth Court have recognized that the fact that a facility identified in the application becomes unavailable is not fatal to CAB's review and approval of a charter. *See, Brackbill v. Ron Brown Charter School*, 777 A.2d 131 (Pa. Cmwlth. 2001).

Thus, Commonwealth Court remanded this case to CAB so that CAB could determine if Propel's new site met the requirements of the CSL. The CSL requires a charter school applicant to provide a description of and address of the facility, its ownership and any lease arrangements. 24 P.S. §17-1719-A(11). On remand, Propel provided documentary evidence, which was not contested by the School District, regarding the location and lease negotiations for the new

facility. Thus, CAB finds that Propel has met the CSL's requirements regarding its proposed facility.

**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF EDUCATION
STATE CHARTER SCHOOL APPEAL BOARD**

In Re: Propel Charter School - Montour :
Appeal from Denial of Charter : **Docket No. CAB 2006-4**
by Montour School District :

ORDER

AND NOW, this 16th day of October 2006, based on the foregoing and the vote of CAB,³ the appeal of Propel Charter School is hereby **GRANTED** and the Montour School District is directed to grant the charter application and sign a charter for the Propel Charter School - Montour pursuant to 24 P.S. §17-1720-A.

For The State Charter School Appeal Board

s/s
Gerald L. Zahorchak, D.Ed.
Chairman

Date Mailed: 10/16/06

³ At its June 27, 2006 meeting, CAB voted 4-0 that the facility information satisfied the CSL and granted the appeal. Chairman Zahorchak and members Bunn, Reeves and Shipula voted to grant the appeal.