



ADVISORY NEIGHBORHOOD COMMISSION 3C
GOVERNMENT OF THE DISTRICT OF COLUMBIA
CATHEDRAL HEIGHTS • CLEVELAND PARK • MASSACHUSETTS AVE. HEIGHTS
MCLEAN GARDENS • WOODLEY PARK

Single Member District Commissioners
01-Dia Black; 02-Deborah Jane Lindeman; 03-Stephanie Zobay
04-Avram Fechter; 05-Bruce Beckner; 06-Trudy Reeves
07-Sheila Hogan; 08-Catherine May 09-Nancy MacWood

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RESOLUTION 2005-060

On Breach of Contract of 1995 Agreement by Aidan Montessori School with ANC3C

WHEREAS, AIDAN Montessori School (Aidan) entered into an Agreement with the Advisory Neighborhood Commission 3C (“ANC3C or Commission”) and the Woodley Park Community Association (“WPCA”) on June 16, 1995 (hereinafter the “1995 Agreement”) after purchasing the property at 2700 27th Street, N.W.; and

WHEREAS, the property at 2700 27th Street, N.W. was purchased from St. Thomas Apostle School, a neighborhood parochial school; and

WHEREAS, on the basis of a letter from the then acting Zoning Administrator, Aidan claims to have authority to operate under a Board of Zoning Adjustment (“BZA”) Special Exception granted to St. Thomas Apostle School, which limited enrollment to 240 students; and

WHEREAS, Aidan, WPCA, and ANC 3C entered into a contract that addressed neighborhood concerns regarding potential adverse impacts, such as additional traffic and parking issues, because a non-neighborhood oriented school was occupying the site; and

WHEREAS, in the 1995 Agreement, Aidan, agreed to limit its enrollment to 180 students and within 36 months of obtaining its Certificate of Occupancy, to apply to the BZA for its own special exception to operate a school with a maximum enrollment of 180 students, and

WHEREAS, Aidan, by its own admission is, and for the last two years has been, in substantial violation of the enrollment limit contained in the 1995 Agreement, currently enrolling approximately 210 students; and

WHEREAS, Aidan never filed an application with the BZA for its own special exception with an enrollment limit of 180 students within the time limit the school promised to do so as recorded in the 1995 Agreement; and

WHEREAS, Aidan announced on October 6, 2005 that it has withdrawn its BZA application for a special exception to operate a school with an enrollment cap of 180 filed earlier this year; and

WHEREAS, in July 2005, an ANC3C subcommittee met with Aidan’s Head of School, it’s legal counsel, the chair of its Board of Trustees (who represented that they had practical authority to bind the school), and an Aidan parent and concluded an oral understanding to sign a written agreement (“the Waiver Agreement”) that gave Aidan three years to reduce its enrollment to the 180 cap provided for in the 1995 Agreement in exchange for Aidan’s agreement to amend the 1995 Agreement to make it enforceable through binding arbitration rather than through an action in court, subject only to the ratification by this Commission and the Aidan Board of Trustees; and

WHEREAS, at its September 19, 2005 meeting this ANC passed a motion adopting both the Waiver Agreement and the proposed Amendment to the 1995 Agreement, subject only to adoption of the Amendment to the 1995 Agreement by WPCA as a party to the original agreement; and

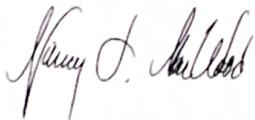
WHEREAS, on October 7, 2005, the Chair of Aidan's Board of Trustees wrote the Chair of ANC3C and stated Aidan's disavowal and refusal to sign the Waiver Agreement and its intention not to abide by the promises it made in the 1995 Agreement.

THEREFORE, BE IT RESOLVED

1. That the Commission finds that Aidan is in breach of the requirement of the 1995 Agreement that Aidan file an application for a special exception with the BZA to operate a school with an enrollment of 180 students.
2. That the Commission finds that Aidan is in breach of the requirement of the 1995 Agreement that Aidan limit its enrollment to 180 students.
3. That the Commission finds that Aidan is operating a private school in a residential neighborhood without the required authority to do so.
4. That the Commission finds that Aidan has acted in bad faith with respect to the Woodley Park Community and the ANC in inducing the community to drop the objections the community had to Aidan's taking over the premises of the St. Thomas Apostle School in exchange for concluding the 1995 Agreement and then in subsequently breaching every aspect of the 1995 Agreement and in announcing its intention not ever to comply with it.
5. That the Commission finds that Aidan's Head of School, Kathy Minardi and its Board Chair Melissa Hurst have acted in bad faith in not honoring the commitment to the members of the subcommittee of this Commission that Aidan would sign the Waiver Agreement and the amendment to the 1995 Agreement once the Commission passed a resolution adopting those agreements.
6. That the Commission intends to report this breach to the Association of Independent Schools of Greater Washington, of which Aidan is a member, as the breach does not conform with the Association's commitment to fostering high professional standards among its member schools; and

BE IT FURTHER RESOLVED that ANC3C authorizes the Chair, Commissioner ANC3C-03, Commissioner ANC3C-02, or her designee(s), to represent the ANC on this matter before the appropriate government regulatory officials and the courts.

Attested by



Chair, on October 17, 2005

Nancy J. MacWood

This resolution was approved by a vote of 7-0 by ANC 3C at its regular monthly meeting on October 17, 2005, at which a quorum of 7 of 9 commissioners was present.