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July 14, 2011

Office of the Attorney General
Maryland State Department of Education
c/o Jackie LaFiandra – State Board Appeal
200 St. Paul Place, 19th Floor
Baltimore, MD 21202

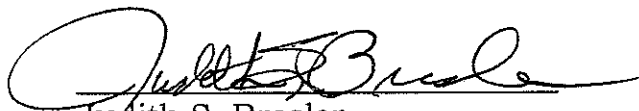
*RE: Rock Creek Hills Citizens Association, et al. v.
Board of Education of Montgomery County*

Dear Ms. LaFiandra:

Enclosed is the County Board of Education Motion to Dismiss or, in the Alternative, Motion for Summary Affirmance and the County Board Memorandum in Support of Motion to Dismiss, or, in the Alternative, Motion for Summary Affirmance in connection with the above-captioned matter.

Should you have any questions, please contact me at your convenience.

Very truly yours,



Judith S. Bresler

JSB/mac
copy to:

Dr. Joshua P. Starr
Mr. Larry Bowers
Mr. Roland Ikheloa
Mr. John M. Robinson

BEFORE THE MARYLAND STATE BOARD OF EDUCATION

ROCK CREEK HILLS
CITIZENS ASSOCIATION, ET AL.

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Appellants

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v.

*

MONTGOMERY COUNTY
BOARD OF EDUCATION

*

Respondent

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* * * * *

COUNTY BOARD OF EDUCATION
MOTION TO DISMISS OR, IN THE ALTERNATIVE,
MOTION FOR SUMMARY AFFIRMANCE

The Board of Education of Montgomery County ("County Board"), by and through its undersigned counsel, moves the Maryland State Board of Education ("State Board") to dismiss this appeal, pursuant to COMAR 13A.01.05.03C, based on lack of standing or, in the alternative, to summarily affirm the local decision, pursuant to COMAR 13A.01.05.03D, and states the following in support thereof, as more fully set forth in the memorandum attached hereto and incorporated herein:

1. Appellants consist of a representative of a neighborhood citizens association, filing on behalf of its members, a County resident who attended the County Board meeting on the night the school site decision was made, and several other County residents who state they would have attended that meeting if they had had more advanced notice that the County Board was going to consider the Rock Creek Hills Local Park for location of a new middle school.

2. At best, Appellants, even those who also allege that they live within sight or sound of the Rock Creek Hills Local Park, speculate about possible problems with locating and

operating a middle school on the site, but allege no particularized, concrete, or imminent harm to them, as distinct from the public at large, resulting from the decision.¹

3. Appellants, therefore, have not met their burden of demonstrating standing.

4. In the alternative, should the State Board determine that any one of the Appellants has standing, the County Board is entitled to a decision in its favor, without the need for an evidentiary hearing, because, while Appellants interpretation of the facts differ somewhat from the County Board's, the material facts are not in dispute.

5. In the alternative, should the State Board determine that any one of the Appellants has standing, the County Board is entitled to a decision in its favor, without the need for an evidentiary hearing, because the material facts are indisputable and Appellants have failed to cite applicable provisions of law, rule, or regulation that require the procedural steps they allege were violated or require that such procedural steps be completed prior to designating a school site and authorizing a feasibility study of the site's suitability for construction of the school.

6. Appellants, therefore, have not met their burden of demonstrating, by a preponderance of the evidence, that the County Board decision was arbitrary and unreasonable or illegal.

¹ And, in fact, state that they only object to the process and would not complain if the County Board's site selection process was repeated and reached the same result using a process that did not contain the flaws they allege existed in the decision of April 28, 2011. Appeal, p. 13.

WHEREFORE, the instant appeal should be dismissed or, in the alternative, the County Board decision should be summarily affirmed, without the need for further hearing.

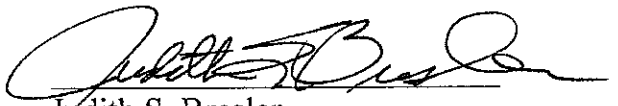
Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of July, 2011, a copy of the foregoing was mailed, postage prepaid, to: John M. Robinson, President, Rock Creek Hills Citizens Association, 9616 Old Spring Road, Kensington, MD 20895.



Judith S. Bresler

BEFORE THE MARYLAND STATE BOARD OF EDUCATION

ROCK CREEK HILLS
CITIZENS ASSOCIATION, ET AL.

*

Appellants

*

*

v.

*

MONTGOMERY COUNTY
BOARD OF EDUCATION

*

Respondent

*

* * * * *

COUNTY BOARD OF EDUCATION
MEMORANDUM IN SUPPORT OF MOTION TO DISMISS,
OR, IN THE ALTERNATIVE,
MOTION FOR SUMMARY AFFIRMANCE

The Board of Education of Montgomery County (“County Board”) believes that Appellants have not demonstrated standing and, on the merits, the arguments presented to the Maryland State Board of Education (“State Board”) in this appeal are based on a lack of understanding regarding the notice requirements of local policy, the mandatory referral process, the purposes of a feasibility study, and the applicable standard of review.

I. STATEMENT OF FACTS

In the past three years, enrollment in Montgomery County Public Schools (“MCPS”) has increased by over 6,000 students, despite a stagnant housing market and a weak economy. The Bethesda-Chevy Chase (“B-CC”) Cluster has been one of the fastest growing clusters¹ over that time period. Bethesda-Chevy Chase is an older, well-developed, area of Montgomery County that borders the District of Columbia. The B-CC Cluster currently is served by one

¹ Public schools in Montgomery County are organized into clusters consisting of several elementary schools, one or more middle schools, and a high school. The name of the high school designates the cluster.

middle school, Westland Middle School (“Westland MS”). This school is projected to reach a utilization rate of 124% by the 2016-2017 school year. In addition, Chevy Chase Elementary School and North Chevy Chase Elementary School are the only two public elementary schools in Montgomery County that serve Grade 6 students. Approximately 200 Grade 6 students are served in these two elementary schools rather than at the middle school. Overall, the total projected Grades 6 to 8 enrollment in the B-CC Cluster is over 1,500 students, but the capacity of Westland MS is only 1,063. Attachment 1.

At the end of the 2009-2010 school year, the Superintendent received a report of a community advisory committee, the Bethesda-Chevy Chase Cluster Roundtable Discussion Group. This group was asked to consider approaches to three facility issues in the B-CC Cluster: (1) overutilization of Bethesda, Chevy Chase, North Chevy Chase, and Rosemary Hills elementary schools; (2) the unique articulation pattern of the Bethesda Elementary School service area; and (3) the grade organization at Chevy Chase and North Chevy Chase elementary schools which are the only two elementary schools in the County that, due to lack of space at Westland MS, serve Grade 6 students in elementary schools. Attachment 2.

On October 15, 2010, the Superintendent responded to the Roundtable Report by recommending that Grade 6 students currently served at Chevy Chase and North Chevy Chase elementary schools be reassigned to the middle school level as soon as a new middle school can be opened in the B-CC Cluster.² The *Superintendent’s Recommended FY 2012 Capital Budget and Amendments to the FY 2011-2016 Capital Improvements Program*, Attachment 1, included recommendations to form a site selection committee in the winter of 2011 to identify a location

² An elementary school boundary study also was recommended to address the elementary school overutilization issue and the articulation issue.

for a new middle school in the B-CC Cluster and, once identified, to conduct a feasibility study for construction of the middle school on the selected site in spring of 2011. The County Board conducted a work session on the Superintendent's recommendations on November 4, 2010, held public hearings on November 10 and 11, 2011, and took action on November 18, 2011, to authorize a site selection process and feasibility study for the new middle school. Funding for the new middle school is expected to be requested in November 2011 as part of next year's capital improvements program. The Roundtable Report, the *Superintendent's Recommended FY 2012 Capital Budget and Amendments to the FY 2011-2016 Capital Improvements Program*, the public hearings, and the County Board's actions on the capital budget recommendations were widely publicized and the documents are easily available from the County Board's website.

The Real Estate Management Team of the MCPS Department of Facilities Management formed a Site Selection Advisory Committee ("SSAC") composed of representatives of various governmental agencies, including the Maryland-National Capital Park and Planning Commission ("Park and Planning"), representatives of B-CC Cluster school communities through the Montgomery County Council of Parent Teacher Associations ("MCCPTA"), representatives of municipalities in the Cluster, and MCPS staff.³ Administrative Regulation FAA-RA, which implements the County Board's *Long-Range Educational Facilities Planning Policy*, contains a number of factors to be considered by the SSAC when it evaluates potential school sites, including location, size of the site, topography, vehicular and pedestrian access, utilities, physical condition, availability and timing, and cost. Attachments 2 and 3.

³ The SSAC had a total of 26 individuals representing the different entities/constituencies.

The SSAC for B-CC middle school #2 considered ten potential sites within the B-CC Cluster target area, some privately owned and some publically owned. See Attachment 2, Exhibit C. The SSAC evaluated each of these sites using the same criteria. The SSAC discussed each potential site in terms of consistency with the approved and adopted countywide master plan. All of the potential sites met the criteria for availability of utilities. Several were eliminated because the sites were too small to accommodate the middle school program. One site was eliminated because it is adjacent to commercial/industrial facilities and abuts the future Purple Line alignment with proposed rail sidings. Another was eliminated because of the expense and lengthy time involved to retrieve the property from the current tenant and because it was not located in the B-CC Cluster. Others were eliminated for other reasons described in the "Analysis" portion of the SSAC Report, Attachment 2, pp. 16-17. The SSAC eventually reached consensus on two potential sites and made the following recommendation to the Superintendent of Schools: "The SSAC recommends that the Rosemary Hills/Lyttonsville Local Park site be selected as the site for the Bethesda-Chevy Chase Middle School #2 with the Rock Creek Hills Local Park site recommended as an alternative." (Emphasis supplied) Id. at 17.

The Superintendent agreed with the recommendation of the SSAC and the matter was scheduled for action by the County Board on March 28, 2011. The County Board needed to designate a site and then authorize a feasibility study for construction of the middle school on the selected site. Draft agendas are posted on the County Board's home page in advance of meetings and updated as new information becomes available. A final agenda is posted two or three days in advance. A press release containing the agenda is emailed to the media no later

than the day before the meeting. Paper copies of the agenda and draft resolutions are placed in the County Board meeting room at 4 p.m. the day before the meeting.

A memorandum from the Superintendent to the County Board recommending the Rosemary Hills/ Lyttonsville ("RM/Lyttonsville") site for the second B-CC middle school contained a draft resolution and was posted on the County Board website on or about March 24, 2011. Attachment 4. Shortly after these materials were posted, community members began contacting the County Board office about the recommendation for the RM/Lyttonsville site. Members of the County Board expressed the desire to discuss the recommendation and so it was removed from the "Consent Items" agenda for the March 28, 2011, meeting and rescheduled for the next month's evening business meeting, to be held on Thursday, April 28, 2011. Attachments 5 and 6.

At the County Board's direction, the SSAC report was released to the public and immediately after release of the report, on Wednesday, April 13, 2011, Mr. Bruce Crispell, Director of Long-Range Planning, contacted Mr. John Robinson, President of the Rock Creek Hills Citizens Association, to personally notify him that the Rock Creek Hills LP was among the sites reviewed by that committee, and that, although not the preferred site, it was one of the two sites that were not eliminated as a potential school site. Attachment 6.

In the meantime, representatives of MCPS were asked to attend what was called an "Emergency Town Hall Meeting" hosted by the Lyttonsville, Rock Creek Forest, and Rosemary Hills communities to be held in the community on April 21, 2011. Mr. Crispell and Ms. Janice Turpin, Team Leader of the Real Estate Management Unit, Department of Facilities

Management, attended the forum, as guests of the civic associations, to discuss the site selection process. Attachment 7.

As the April 28, 2011, County Board meeting approached, county residents continued to voice their comments and opinions. The Montgomery County Planning Board (“MC Planning Board”), which had not taken a position previously, wrote to the County Board President, Christopher Barclay, on April 27, stating that it had only “recently voted specifically to object to the selection of Rosemary Hills-Lyttonsville Local Park for conversion to a school site.” Attachment 8. The Chair of the MC Planning Board noted that as the County becomes more urbanized acquisition of park land becomes more difficult and preservation of existing parks more important. It seemed clear that Park and Planning was not amenable to negotiating with the school system for acquisition of the RM/Lyttonsville site for B-CC middle school #2. Although the MC Planning Board argued for preservation of all existing park property, it acknowledged that “[t]here are some exceptions to the rule of no conversion of parks . . . there are some parks currently in our system that can be recalled by the Board of Education for the development of new schools” One of those properties is the Rock Creek Hills Local Park, the alternative site recommended by the B-CC Roundtable Discussion Group. *Id.* at pp. 2-3.

The prospects for the school system’s ability to obtain the recommended RM/Lyttonsville site were extremely dim in light of the April 27, 2011, letter from the MC Planning Board. As a result, the Superintendent revised the resolution he had originally proposed to include Rock Creek Hills LP as an alternative school site if the RM/Lyttonsville LP site was unavailable and to authorize a feasibility study on both potential sites. Attachment 9.

On April 28, 2011, there was extensive and thoughtful discussion among members of the County Board, ending with adoption of a resolution selecting the Rock Creek Hills LP as the site for the second B-CC middle school and authorizing a feasibility study for construction of the school in this site. Attachment 10. On May 23, 2011, an architectural firm, Samaha Associates, P.C. ("Samaha"), was selected to conduct the feasibility study. Attachment 11.

Work sessions and meetings between community members, school staff, and the architect began on June 8, 2011. Attachment 12. The work session was held at the B-CC High School and included a detailed presentation on various aspects of the feasibility study process. Samaha noted, *inter alia*, that preliminary traffic and pedestrian studies already are underway. Attachment 13. The impact of storm water also would be a part of the feasibility study. The community was informed that all trees would be catalogued, measured, etc. to comply with Maryland National Capital Park and Planning regulations. A number of concerns and questions were raised by community members who attended the work session and additional information was provided. For example, there had been concern that the site size did not meet the 20-acre standard, but school staff clarified that 20 acres is a preferred size and not a requirement and that, currently, the school system operates three middle schools of comparable size. The remaining steps to be taken, before the project receives final approved and funding, was outlined by school staff. The community was informed that "[t]he minimum completion for the project would be 5 years from [June 8, 2011]." Attachment 14.

A second work session was held on June 22, 2011. At this session, those in attendance were informed that the project will be going through the mandatory referral process. The scope of the traffic study was discussed. Additional information was provided about the tree

inventory, including documentation and when special approvals are required to cut down larger trees. Information about the stream buffet requirements was provided and several conceptual designs were displayed. Attachment 15.

At present, two additional work sessions are scheduled for July, two for August, and one for September 2011.

II. ARGUMENT

A. Appellants Lack Standing

Appellants have not met their burden of establishing that they have standing to contest the County Board's decision. In particular, Appellants have not alleged that they were injured by the County Board's decision to select Rock Creek Hills LP for location of the second B-CC middle school and authorize a study to determine the feasibility of locating the school on that site. Furthermore, at this stage of the process, any such alleged injury would be purely speculative because the County Board has not authorized, or even requested funds for, construction of the new middle school on this or any site.

The lead appellant, the Rock Creek Hills Citizens Association ("Citizens Association") merely alleges that it is a registered citizen association and that Rock Creek Hills LP is within the civic boundaries of the Citizens Association. Appeal, p. 2. The individual appellants merely allege that they are residents of Rock Creek Hills and that they attended the April 28, 2011, County Board meeting (Ms. Hamm) or live within direct sight and sound of Rock Creek Hills LP, but were not afforded inadequate notice of the April 28, 2011, County Board meeting and thus were unable to the meeting (Mr. Pekar, Mr. Kaplan, Ms. Fink, and Mr. Pugliese).⁴

⁴Appellants also, incorrectly, refer to the April 28, 2011, County Board meeting as a "hearing." Appeal, p. 2. That meeting was not a hearing; it was a regularly scheduled meeting where a representative of the citizens

Appeal, p. 2. These allegations are insufficient to confer standing.

In Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-561 (1992), the U.S. Supreme Court held that:

the irreducible constitutional minimum of standing contains three elements. First, the plaintiff must have suffered an “injury in fact” – an invasion of a legally protected interest which is (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical. Second, there must be a causal connection between the injury and the conduct complained of Third, it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.

(Citations, footnotes, and internal quotation marks omitted) As the party seeking legal review by the State Board, the Appellants bear “the burden of establishing these elements.” Id. at 561.

“Allegations of merely speculative injury are insufficient to establish standing; claiming that there are circumstances under which a plaintiff could be affected is not sufficient to establish standing. (Emphasis supplied) *See United States v. Students Challenging Regulatory Agency Procedures (SCRAP)*, 412 U.S. 669, 688-89 (1973).” Cunnane v. United Transportation Union, 1997 WL 787137 (4th Cir. 1997). Moreover, a “claim is not ripe for adjudication if it rests upon contingent future events that may not occur as anticipated, or indeed, may not occur at all.” (Internal quotation marks omitted) A judicial (or quasi-judicial) determination outside of “the context of a concrete case involves too remote and abstract an inquiry for the proper exercise of the judicial function.” Texas v. United States, 523 U.S. 296, 301 (1998). Appellants simply have failed to allege how they would be injured if a school was constructed on the site; instead, they merely recite alleged procedural irregularities and a list of alleged inadequacies in the information before the County Board to support their arguments that the process was flawed and the decision arbitrary. As discussed later in this memorandum,

association and other members of the community, who had signed up to speak during the time set aside at every meeting for “Public Comments,” addressed the County Board on a variety of topics.

the site selection process was consistent with applicable Policy and Administrative Regulations, and the concerns about traffic and pedestrian access, environmental impact, etc., pertaining to the suitability of Rock Creek Hills LP as a middle school site are to be addressed by the feasibility study. Appellants' speculative concerns about matters that will be addressed in the feasibility study constitute anxiety rather than injury. The anxiety may be understandable but, it should not be sufficient to satisfy the essential requirement of standing – that there be a showing of injury that is concrete and particularized as well as actual or imminent (rather than conjectural or hypothetical).

Appellants have failed to satisfy standing requirements. Accordingly, the appeal should be dismissed.

B. The Site Selection Process Was Consistent With Policy and Regulations

Appellants allege that the letter from the Chairman of the MC Planning Board is “evidence” that the site selection process was arbitrary and unfair. Appeal, p. 6. The “evidence” consists of one hearsay statement and the comment by the MC Planning Board Chairman that “[t]his does not seem appropriate”⁵

Appellants also object to the fact that there was no community representative from the area north of East-West Highway or east of Connecticut Avenue, where the top two ranked sites were located. Appellants, however, cite no provision, rule, regulation, policy, or practice that requires that the SSAC members represent every neighborhood in which a potential school site might be located. First, it would be impossible to have such a requirement since not all the

⁵ The Park and Planning Department representative on the SSAC is alleged to have said “he did not have the opportunity to present the cost and other data that would have made for a fairer comparison among all the sites under consideration, and that his objections to conversion of parkland were ignored.”

potential sites that may be considered by the SSAC are known prior to the time the committee is formed and begins its consideration of potential sites.⁶ Second, and more importantly, while it is, perhaps, understandable that Appellants' focus is on the neighborhood and citizens association as representative of the community, the school system looks to representatives from the wider school communities. Administrative Regulation FAA-RA, Attachment 7, p. 14, states:

MCPS staff works with MCCPTA⁷ area vice presidents, cluster coordinators, or PTA presidents to form a Site Selection Advisory Committee (SSAC) composed of MCPS staff; PTA representatives; appropriate municipal and county government agencies and county government agency officials.

The SSAC complied with this regulatory provision. See Attachment 2, Exhibit B.

Appellants also claim that the County Board decision was "inherently arbitrary" because the "potential sites necessarily involved conflicts between different communities [which] the Local Board belatedly realized, but then failed to address in a reasonable manner." Appeal, p. 6. There is no factual support whatsoever for this bald assertion. Appellants fail to explain why a decision to select one of two sites, both of which are contested by some in the neighborhood of the potential sites, is "inherently arbitrary" or what the County Board could do to "address in a reasonable manner" the fact that two sites were being actively considered and some within each neighborhood community opposed selection of the site in their neighborhood. The assertion is baseless.

C. No Requirement For Each Civic Association or Homeowner Receive Special Notice

Appellants claim that the County Board failed to give "the residents of Rock Creek

⁶ SSAC members may suggest additional sites for consideration.

⁷ Montgomery County Council of Parent Teacher Associations.

Hills a realistic opportunity to comment, prior to the afternoon of April 28, 2011.” To support this contention, Appellants note that the Superintendent’s revised recommendation specifically mentioning the Rock Creek Hills LP site was not posted until the day of the County Board meeting. Appellants, however, were well aware that the Rock Creek Hills LP site had been recommended as the alternate site by the SSAC. School staff personally informed the Citizens Association president two weeks before the April 28 meeting. See Attachment 6.

Appellants say that the “Rock Creek Hills community had no apparent or inferred knowledge that any scheduled vote by the Local Board would select the Rock Creek Hills Local Park as the final site for a new middle school.” (Emphasis in original) Appeal, p. 7. There is no logical explanation for Appellants’ apparent belief that the County Board is limited to voting for or against the Superintendent’s recommendation or that there is some obligation to anticipate and post in advance any and all possible amendments the County Board might make when it considers a matter on its agenda.⁸

Appellants simply assert, without any explanation or evidence, that the County Board was aware “that both its community involvement protocols and notice of the Local Board April 28 meeting were inadequate.” Appeal, p. 8. This assertion appears to be part admission and part opinion. The admission is that Appellants apparently realize that there is no “community involvement protocol” that requires that the civic associations representing potential school sites (or nearby homeowners) receive a guaranteed place on the SSAC, individual notification of school site recommendations, or advanced posting of every conceivable amendment that might be made to a resolution recommended for adoption. The opinion is that without these

provisions the community involvement protocols and meeting notices are inadequate. That opinion is without legal basis.

D. The Site Selection Process Was Consistent With Requirements of Law and Policy

Pages 9 through 12 of the Appeal contain a litany of information that the County Board did not have when it chose Rock Creek Hill LP as the site for B-CC Middle School #2 and authorized a feasibility study of the site. Appellants' concerns about such things as the cost of retrieving the site, road access, pedestrian access, traffic impact, presence of mature trees, and environmental impact may be understandable, but their time sequence is off. The concerns Appellants describe are precisely the kinds of questions and concerns that the feasibility study is to address. See attachments 13, 14, and 15. Appellants cannot seriously be suggesting that traffic studies, environmental impact, plans to preserve mature trees, etc., should be conducted on every potential site before the SSAC, Superintendent, or County Board consider selection of any school site. The logistics and the cost alone would be prohibitive and many of the questions about environmental impact, etc., cannot be addressed in the absence of a site plan for how and where the building, parking, and athletic fields would be located.

The same response applies to Appellants' most recent amendment to their appeal regarding mandatory referral. Respondent does not deny that construction of a school means that mandatory referral provisions apply. The question is when is the appropriate time for that to occur? Again, Appellants identify a required step in the process, but have the timing wrong. There is very little for the Planning Board to review without a site plan. Mandatory referral occurs once the feasibility study is complete and a site plan chosen. See Attachment 15, p. 2.

⁸ Appellants also seem to imply, without any basis, that the school system should have given them some sort of notice or made them "privy" to the MC Planning Board's opposition to the RM/Lyttonsville LP site, received by

III. STANDARD OF REVIEW AND CONCLUSION

Appellants quote the State Board standard, found in COMAR 13A.01.05.05B, for determining if a decision is arbitrary or unreasonable.

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.

Appellants then contend that the County Board decision to select Rock Creek Hills LP as the site for the second B-CC Cluster middle school is arbitrary and unreasonable because neither the Citizens Association nor the individual residents of the Rock Creek Hills neighborhood would have reasonably reached the same conclusion. Appeal, p. 13. The standard is not whether opponents of the County Board's decision would have reasonably reached the same decision; it is whether an objective, reasoning mind could have reasonably reached the same decision.

That a reasoning mind could reasonably have reached the same decision as the County Board cannot seriously be debated. Ten sites were evaluated by a group of interested and knowledgeable people from local governments, school staff, and community members. Only two of the ten were viable. One of the two, the RM/Lyttonsville LP site, the top choice, was, as a practical matter, unavailable. See Attachment 8. The second, and only remaining, site could be retrieved by the school system for use as a school site. The need is indisputable and critical.

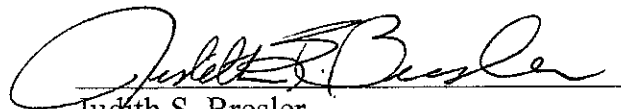
the County Board the day before its meeting. Id.

The options limited.

While it remains to be seen how feasible it is to construct a middle school on the site, the record fully supports the actions taken by the school system and County Board to date. This kind of discretionary decision is presumed to be correct and Appellants have the burden of overcoming that presumption. When viewed in full and complete context, based on the record provided, Appellants have not established standing, nor have they met their burden of proving by a preponderance of the evidence that the decision to select this site was arbitrary, unreasonable, or illegal.

Respondent, therefore, asks that the appeal be dismissed or, in the alternative, that its decision be affirmed.

Respectfully submitted,



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Attorney for Board of Education
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of July, 2011, a copy of the foregoing was mailed, postage prepaid, to: John M. Robinson, President, Rock Creek Hills Citizens Association, 9616 Old Spring Road, Kensington, MD 20895.



Judith S. Bresler