

STATE OF MINNESOTA

IN COURT OF APPEALS

Matthew J. Look on behalf of his minor son
John Dehen on behalf of his minor daughter,
and Matthew J. Look and John P. Dehen
on behalf of those City of Ramsey residents
similarly situated.

APPELLANT'S LETTER BRIEF
AND APPENDIX

Trial Court Case
Number: CV-08-1739

Plaintiffs-Appellants,
vs.

Ct. of Appeals Case
Number: A08-1114

PACT Charter School,

Defendant-Respondent.

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The appendix to this brief is not available for online viewing as specified in the *Minnesota Rules of Public Access to the Records of the Judicial Branch*, Rule 8, Subd. 2(e)(2).

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APPELLANT'S SHORT
LETTER ARGUMENT

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ARGUMENT

The statute is M.S. 124 D.10 Subd. 9(3), (M. S. 124D) which states in part:

...If a charter school is the only school located in a town serving pupils within a particular grade level, then pupils that are residents of the town must be given preference for enrollment before accepting pupils by lot. If a pupil lives within two miles of a charter school and the next closest public school is more than five miles away, the charter school must give those pupils preference for enrollment before accepting other pupils by lot. A charter school shall give preference for enrollment to a sibling of an enrolled pupil and to a foster child of that pupil's parents before accepting other pupils by lot.

Emphasis added.

The City of Ramsey is undisputedly an incorporated charter city located in Anoka County. Notwithstanding "town" language in the statute, the plaintiffs herein claim the defendant charter school must give a statutory preference to City of Ramsey resident pupils in kindergarten and grades 6-12 since there are no other schools in Ramsey serving

those grades. The defendant asserts it can restrict or not apply the resident preference based on the fact that Ramsey is a “city” (incorporated) and not a “town” (unincorporated).

The crux of the matter is what interpretation to give the word “town” as used in M.S. 124D. More specifically, assuming the number of school applications exceeds the charter school’s program capacity and therefore statutory preferences apply, is the reference to “town” in M.S. 124D synonymous with “city”? If this is true, then City of Ramsey applicants would be given an enrollment preference in kindergarten and grades 6-12 as the defendant charter school is the only school in the City of Ramsey serving those grade levels.

Since M.S. 124D et seq. is silent on the definition of “town”, the Court must look to other extrinsic evidence for its definition. Is the term “town” as used in the statute confined only to those units of government that are unincorporated as defendant contends? Or does “town”, as used in this educational statute, mean “the place where people live” which encompasses a “city” as plaintiff contends? Neither party disputes that “town” has more than one meaning.

Although this is a de novo review, since it involves the interpretation of a statute, the plaintiff’s contend the trial court erroneously concluded “town” meant an unincorporated unit of government only which is contrary to the Minnesota Department of Education, (MDE), opinion, legislative history, and even the contention of M.S. 124D’s legislative author.

M.S. 645.16 states:

The object of all interpretation and construction of law is to ascertain and effectuate the intention of the legislature. Every law shall be construed, if possible, to give effect to all its provisions.

When the words of a law in their application to an existing situation are clear and free from all ambiguity, the letter of the law shall not be disregarded under the pretext of pursuing the spirit.

When the words of a law are not explicit, the intention of the legislature may be ascertained by considering, among other matters:

- (1) the occasion and necessity for the law;*
- (2) the circumstances under which it was enacted;*
- (3) the mischief to be remedied;*
- (4) the object to be attained;*
- (5) the former law, if any, including other laws upon the same or similar subjects;*
- (6) the consequences of a particular interpretation;*
- (7) the contemporaneous legislative history; and*
- (8) legislative and administrative interpretations of the statute.*

The word "town" is not defined in M.S. 124D. It is however defined in Black's Law Dictionary as having more than one meaning. As stated above, in defining "town" in it's "application to an existing situation", it can not mean an "unincorporated" local unit of government in the context of M.S. 124D, contrary to the defendant's and the trial court's interpretation.

In an attempt to provide the trial court with rationale for application of the law to the existing situation, plaintiffs provided multiple definitions of "town" which they contended made basic application of the law ambiguous. In addition, plaintiffs provided the court with the contemporaneous legislative history/transcript, the administrative interpretation by the MDE, the affidavit of the bill's legislative author and now district court judge Thomas Neuville, and the statistical evidence that approximately only six of the 153 charter schools statewide are located in "towns".

Regarding the legislative transcript, the defendant does not dispute that the law was enacted to allow resident pupils in the City of Nerstrand, Minnesota (erroneously referred to as the "town" of Nerstrand by legislator Neuville) to attend school in the local community. Regarding the administrative opinion from MDE, defendant does not dispute what that agency interprets M.S. 124D so as to allow a City of Ramsey resident pupil enrollment preference. Defendant merely claims it does not have to abide by the MDE opinion. Regarding Judge Neuville's interpretation/recollection, defendant does not dispute that it was the then state senator Neuville for the law to have broad application to include cities such as Nerstrand. But for the broad definition of "town" as being the place where people live that includes cities, the statute at issue would not apply to the very city that was the impetus for the law! Regarding the statistical evidence of charter school locations in "towns" and cities, it would seem logical that the legislature desired the law to provide for expanded enrollment opportunities in order to permit pupils to attend school in their immediate residential vicinity such as in the City of Nerstrand, rather than passing legislation for only those six schools located in unincorporated areas.

The trial court improperly focused on the letter of the law in referring to the "presumed" nature of the legislature's choice of words that would indicate its intent. Any review of the legislative transcript reveals the trial court's "presumption" to be wrong or at the very least, rebuttable. Noteworthy and ironically, the trial court used its own extrinsic evidence, M.S. 365.01, to clarify on the definition of "town" in concluding the legislature meant "town" to be an unincorporated local unit of government. Clearly, the trial court did not consider plaintiff's extrinsic evidence. Apparently, the trial court concluded "town" was clear in M.S. 124D but failed to look at the words of law, namely

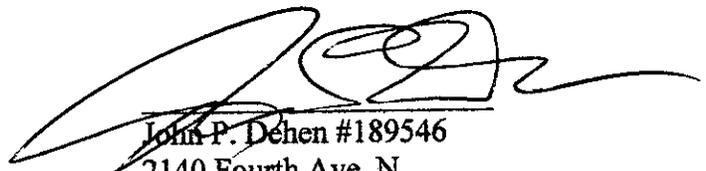
“town” in its application--a critical part of the required legal inquiry in ascertaining legislative intent. Either the legislature intended “town” to mean an unincorporated entity in which residents are denied an enrollment preference or it intended “town” to mean a place where people live in which city residents are given an enrollment preference.

In this de novo review of the interpretation of a statute, plaintiff contends that this court, pursuant to M.S. 645.16, must consider the application of the words in its determination whether this statute is clear and free from ambiguity. Plaintiffs believe it is a strained position to conclude that the legislature intended a narrow application as defendant contends and the trial court found. To the contrary, the plaintiff’s contend the legislature’s action/application was to open up enrollment in charter schools to residents of the community where the school is located. This intent for open enrollment is contrary to the defendant’s position.

Finally, plaintiff requests this court publish its decision to allow its decision to have a statewide precedent for all charter schools and similarly situated pupils.

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