



## **Education Law Center**

*Standing Up for Public School Children*

By Fax and Regular Mail

December 15, 2010

Marc D. Larkins, CEO  
New Jersey Schools Development Authority  
P.O. Box 991  
Trenton, NJ 08625-0991

Re: Schedule for Completion of 2008 Capital Plan

Dear Mr. Larkins:

As Plaintiffs' counsel in Abbott v. Burke, Education Law Center (ELC) has a legal responsibility to ensure that the orders entered by the Supreme Court in the litigation are fully implemented in a timely and effective manner for the benefit of school children in Schools Development Authority (SDA) districts. This includes the Court's specific orders and directives for financing and construction of all necessary facilities improvements in SDA districts, Abbott v. Burke, 153 N.J. 480 (1998), pursuant to the Educational Facilities Construction and Financing Act, N.J.S.A. 18A:7G-1 et seq.

In 2008, the SDA adopted a capital plan for SDA districts, prioritizing for financing and completion the most urgently need projects in the districts' approved long range facilities plans. Based on this capital plan, the Legislature authorized additional bonding to enable SDA to finance predevelopment and construction of the projects in the plan. P.L.2008, c.309 (July 9, 2008). Through 2009, the SDA proceeded to advance a number of the capital plan projects.

In January 2010, Governor Christie directed the SDA to halt further activity on all pending projects in which actual building construction had not commenced, until such time as the agency could "review" the capital plan. No clear purpose or goals for the review have been publicly articulated, nor has any time frame for completion of the review been provided either by the Governor or SDA. In recent statements to the SDA board and legislative committees, however, you have indicated that the SDA's review would be completed by October 2010.

As a result of the Governor's decision, the SDA construction portfolio has now dwindled to a handful of projects in SDA districts. The decision has also resulted in placing approximately 50 projects in the pre-development phase in 30 SDA districts on indefinite hold. Many of these projects are "shovel ready" or close to it, and taxpayers have already invested hundreds of millions of dollars in land acquisition, design and other pre-development costs.

There is **no** financial or other justification for further delay in undertaking and completing these projects, particularly when they have been included in the districts' long range facilities plans for over a decade; have been thoroughly vetted for priority and need by the SDA and the Department of Education; and were incorporated into the capital plan that formed the basis for the Legislature's supplemental bond authorization in 2008. In addition, the SDA has now had nearly ten months to conduct its review of the 2008 capital plan.

I want to reiterate that the Abbott v. Burke orders mandating State financing and construction of urgently needed facilities improvements in SDA districts remain in full force and effect. Accordingly, to avoid further litigation in this matter to enforce the Supreme Court's orders, I urge you to promptly provide this office with specific and firm assurances that construction and other work on projects in the 2008 capital plan will commence no later than the end of January 2011.

As always, we stand ready to assist the SDA in efforts to undertake school facilities improvements in SDA districts in a manner that is consistent with the Court's mandates. We look forward to your anticipated cooperation and your prompt reply.

Sincerely,



David G. Sciarra, Esq.  
Executive Director

cc: Paula T. Dow, Esq., Attorney General  
SDA Districts  
Members, Joint Committee on the Public Schools  
Members, Assembly Education Committee  
Acting Commissioner Rochelle Hendricks  
Stephen Buckingham, Esquire