

EDUCATION LAW CENTER
By: David G. Sciarra, Esquire
Attorney No. 026671978
60 Park Place Suite 300
Newark, N.J. 07102
(973) 624-1815; fax (973) 624-7339
dsciarra@edlawcenter.org

Attorneys for Plaintiffs-Movants

RAYMOND ARTHUR ABBOTT, ET AL.,

Plaintiffs-Movants

vs.

FRED G. BURKE, ET AL.,

Defendants-Respondents

SUPREME COURT OF NEW JERSEY
DOCKET NO. 083626

CIVIL ACTION

ORDER

This matter having come before the Court on Motion in Aid of Litigants' Rights by Plaintiffs seeking the State Defendants' ("State") compliance with the Supreme Court's mandate for school facilities improvements and construction in poorer urban or "SDA districts" in Abbott v. Burke, 153 N.J. 480 (1998) ("Abbott V") and Abbott v. Burke, 164 N.J. 84 (2000) ("Abbott VII"), and the implementing requirements in the Education Facilities Construction and Financing Act ("EFCFA"), N.J.S.A. 18A:7G-1 to 48.

And it further appearing that all available funds for school construction projects in the SDA districts have been allocated to complete facilities projects in the Schools Development Authority's ("SDA") 2011 Statewide Strategic Plan;

And it further appearing that the lack of school construction funding has prevented the SDA from advancing any additional facilities projects to active construction since 2014;

And it further appearing that, as a result of a lack of funds, the SDA is unable to advance to construction and completion dozens of major capital projects prioritized by the SDA in its 2019 Statewide Strategic Plan;

And it further appearing that there is no construction funding available to undertake emergent repair projects as may be needed to ensure health and safety in existing school buildings, including such repairs and upgrades as may be needed to meet the requirements to reopen buildings for in-person instruction during the coronavirus pandemic;

And it further appearing that additional funding to undertake and complete the major capital projects prioritized in the 2019 Statewide Strategic Plan and for such health and safety projects as may be needed, especially to safely reopen school buildings in the pandemic, is required to ensure the State's continuing compliance with the mandate in this litigation for school facilities

improvements in SDA districts;

And it further appearing that the Court, in declining to enter relief as premature in Abbott v. Burke, 241 N.J. 249 (2020) ("Abbott XXIII"), did so in anticipation of the State's compliance with its prior decisions requiring funding of needed facilities improvement projects in SDA districts "in the context" of enactment of the Fiscal Year 2021 Budget;

And it further appearing that the State, in the enacted Fiscal Year 2021 Budget or in other supplementary legislation, did not authorize additional funding for needed school facilities improvement projects in SDA districts;

And it further appearing that this Court's intervention is necessary to prevent the State from defaulting on its constitutional obligation to provide Plaintiffs with safe and adequate school facilities;

And for good cause shown;

It is HEREBY ORDERED that Plaintiffs' Motion for Aid to Litigants' Rights requesting relief to ensure the State Defendants' compliance with the mandate for facilities improvements in Abbott V and Abbott VII is granted;

And it is further ORDERED that the State Defendants, by June 30, 2021, seek and secure from the Legislature such school construction funding as is needed and required to manage, undertake

and complete the school facilities projects in the SDA 2019 Statewide Strategic Plan, and as otherwise may be needed for health and safety projects, including those necessary to ensure the safe reopening and operation of school buildings in SDA districts in the coronavirus pandemic;

And it is further ORDERED that this Court retains jurisdiction over this matter.

Dated:
