

SUPREME COURT OF NEW JERSEY
M-1000 September Term 2020
085333

Raymond Arthur Abbott, et al.,
Plaintiffs-Movants,

Newark Board of Education
Receiver

DEC 20 2021

Office of General Counsel

v.

ORDER

Fred G. Burke, et al.,
Defendants-Respondents.

This matter having come before the Court on plaintiffs' motion in aid of litigants' rights, through which plaintiffs seek "an Order directing the State defendants to comply with the Supreme Court's mandate for school facilities improvements in Abbott v. Burke, 153 N.J. 480 (1998) ("Abbott V") and Abbott v. Burke, 164 N.J. 84 (2000) ("Abbott VII"), and the requirements implementing the Court's facilities mandate in the Education Facilities Construction and Financing Act ("EFCFA"), N.J.S.A. 18A:7G-1 et seq.;"

And, through that motion, plaintiffs having sought an order from the Court directing the State to "seek and secure from the Legislature such additional funding as is required to manage and complete the school facilities projects prioritized for construction in the Schools Development Authority's

("SDA") 2019 Statewide Strategic Plan and as otherwise may be needed to ensure the health and safety of school buildings in the poorer urban or SDA districts";

And the Court having requested supplemental briefing from the parties (1) to address the impact, if any, of the adoption of the budget for Fiscal Year 2022; and (2) to elicit their respective positions as to certain cost estimates, including those for the priority projects identified in the 2019 Statewide Strategic Plan as well as the emergent projects needed in SDA districts;

And the Court having reviewed the record, including the parties' supplemental submissions, and having determined that there are unresolved factual questions that bear on the pending motion and that the parties have identified certain areas in which information currently is unavailable, undeveloped, or underdeveloped;

And the Court having concluded that a Special Master should be appointed to conduct a detailed analysis regarding the status of the cost estimates at issue, including any outstanding steps required to finalize the State's cost estimates for the emergent projects needed in Schools Development Authority districts, and other information as is relevant to the pending motion in aid of litigants' rights;

And for good cause appearing;

It is ORDERED that the Court hereby appoints as the Special Master the Honorable Thomas C. Miller, A.J.

It is further ORDERED that the matter is remanded to the Special Master to conduct a detailed analysis of the following issues, along with any other issues that the Special Master in his discretion deems relevant to the undertaking:

1. The status of the cost estimates at issue, including any outstanding steps required to finalize the State's cost estimates for the emergent projects needed in Schools Development Authority districts; and
2. The areas in which data is available and those in which information is unavailable or yet undeveloped, and, where the information is not available or has not been developed, a recitation of the steps taken to obtain the information, the steps required to complete that task, and a realistic projection of when the data will become available, if possible; and
3. Any other information as is relevant to the pending motion in aid of litigants' rights.

It is further ORDERED that the Special Master shall retain discretion over the form of the remand proceedings, including the filing of submissions

from the parties, and shall submit to the Court a written report of his findings on the issues presented within 60 days of the date of this order.

It is further ORDERED that jurisdiction is retained.

WITNESS, the Honorable Stuart Rabner, Chief Justice, at Trenton, this
14th day of December, 2021.


CLERK OF THE SUPREME COURT