IOWA STATE BOARD
OF EDUCATION

(5 D.o.E. App. Dec. 39)

In re Henderson and Reinking	:	
Suzane and Dan Henderson, Denise and Jeff Reinking, Appellants,	:	
v.	:	DECISION
Sergeant Bluff-Luton Community School District, Appellee.	:	[Admin. Doc. #819]

The above-captioned matter came on for hearing on December 9, 1985, before a hearing panel consisting of Dr. Robert D. Benton, (then) commissioner of public instruction and presiding officer; Mr. Bill Bean, (then) chief, Educational Equity Section; and Mr. Dwight Carlson, (then) director, Transportation and Safety Education Division. Appellants appeared in person and were represented by Kenneth C. Schatz of Eidsmoe, Heidman, Redmond, Fredregill, Patterson & Schatz, Sioux City. Appellee Sergeant Bluff-Luton Community School District [hereinafter the District] was present in the persons of directors Elbert Baker and Judith Graber, and Superintendent William Muller. Attorney Paul D. Lundberg of Shull, Cosgrove, Hellige, Kudej & Du Bray, Sioux City, represented the District.

The hearing was held pursuant to Iowa Code chapters 17A and 290, and according to procedures found at 670 Iowa Administrative Code 51.

Appellants seek reversal by the State Board of Education of a decision made by the District's board of directors [hereinafter the Board] denying Appellants' requests to transfer their property to the Sioux City Community School District under the authority of Iowa Code section 274.37.

I.
Findings of Fact

The hearing panel finds that it and the State Board of Education have jurisdiction over the parties and the subject matter of this appeal.

This case presents a somewhat complex set of facts. Suzane and Dan Henderson live at 639 Surrey Lane, in the Carriage Hills subdivision of Sioux City. Denise and Jeff Reinking live at 619 Surrey Lane. There are currently seven or eight homes situated in this portion of Carriage Hills on the west side of Surrey Lane.

The farthest north residence, owned by the Patee family, is designated in the Sioux City Community School District. To the south of the Patees is the Reinking home and the Merrigan home, both lying in the Sergeant Bluff-Luton district. The next house is located on a double lot owned by the Woolworths, and both lots are designated as part of the Sioux City district. Continuing south, the next two residences are owned by the Carmichaels and Appellants

Henderson. To the south of the Hendersons is a vacant lot. Testimony was heard to the effect that the taxes on the vacant lot are split equally between the District and the Sioux City district. The last home on the west side of Surrey Lane belongs to the Robbins family and is designated in the Sioux City district for school purposes.

Apparently all residents pay property tax to both districts. In some cases, the designation of which school district the resident children are to attend depends upon where the homestead is located on the lot. If the house was built on the front half of the lot, it appears to lie in the Sioux City district; if the house is situated on the back half of the lot, resident children are to attend the District schools. Thus, Appellants' contention that the district boundary is an "imaginary line" running through all properties on the west side of Surrey Lane appears to have merit. They propose that an identifiable boundary line -- Surrey Lane — be designated as the new boundary between Sioux City and Sergeant Bluff-Luton.

This change would bring all residents on the west side of Surrey Lane into the Sioux City district. Written statements were introduced at the hearing signed by David Patee, Dorene Merrigan, Larry and Barbara Woolworth, and all four Appellants that such an arrangement would be supported by them. Appellants' Exhibit E. The other two families currently residing west of Surrey Lane, the Robbins family and the Carmichael family, did not submit such statements. The Robbinses are already designated in the Sioux City district. The Carmichaels do not wish to have their property transferred to the Sioux City district. Appellee's Exhibit 1. Consequently, Appellants have asked that if we grant the relief sought, we create some sort of exemption for the Carmichaels for as long as they reside there or have children of school age at home. Residents on the east side of Surrey Lane, already designated as residents of the District for school purposes, would not be affected by Appellants' proposal.

The legal property descriptions were introduced into evidence showing those territories which are part of the Sioux City district. The descriptions are dated July 1, 1965. The Reinkings purchased the land and moved into their new home in 1978. Appellants Henderson moved to the area in 1981. The Hendersons knew at the time they moved that they were in the District. Appellants have contacted the appropriate county authorities to verify the correctness of the "imaginary boundary line" and have been told that no error has been made and the boundary is as shown in the legal descriptions.

Mr. Donald Linduski, Woodbury County auditor, and Mr. Harold Zarr, Woodbury County assessor, both wrote letters, attached to Appellants' affidavit of appeal, in support of Appellants' request, citing "administrative problems" with the divided lots/divided school districts in the Carriage Hills subdivision. Both stated that they "cannot foresee any fiscal problems in consolidating" the divided lots into the Sioux City school district.

All residents on the west side of Surrey Lane have Sioux City addresses and phone numbers and are served by the Sioux City postal service. They are closer geographically to the Sioux City schools (two miles) than to the District schools (six miles). Both districts provide transportation services to the Carriage Hills area; at times the buses meet and pass on Surrey Lane. Area residents who are employed work in Sioux City. The Hendersons' daughter attends the Sioux City schools on a tuition basis. Appellants Reinking send their children to parochial schools.

As far back as September, 1983, Appellants and other residents sought relief from the boundary situation by approaching the District Board. Minutes from the September 19 meeting of that year indicate that Mr. Chuck Robbins made a presentation and request for boundary change. No action was taken, but Superintendent Muller asked that "the families involved get a legal description of the lots . . . in order to have a more accurate outline of the area." Previous Record, Board minutes of 9/19/83, at p. 1.

The next action taken by Appellants was a letter to Board President Judy Graber dated May 10, 1984, and signed by Appellants as well as the Carmichaels and the Merrigans. In support of their request to be released from the District, they cited the imaginary boundary line and its resulting inconsistencies and inequity, the distance factor, the Sioux City ties shared by the families in the area, and a statement to the effect that the District would only suffer the loss of three students (the Carmichael children) if a new boundary were established as all others who would be affected by the change are not currently attending the District anyway.

On May 21, 1984, at a regular board meeting, the letter was discussed by the directors. No action was taken on the request, but the Board decided to contact legal counsel for assistance. The next time the issue arose was on June 18, 1984. Following discussion, a motion was made to deny the requests and all present voted in favor of the motion. Previous Record, Board minutes of 6/18/84, at p. 1.

Appellents' counsel appeared on their behalf at the August 20, 1984, meeting to ask the Board to reconsider its decision. Board Counsel Carlton Shull was also present. The Board "decided to table any further action on this subject until such time as a correct boundary line is identified and also when a full board will be present." Id. at Board minutes of 8/20/84, p. 1.

The record before us is silent as to any action by either party until April 10, 1985. Counsel for Appellants wrote to Superintendent Muller seeking to be included on the agenda for an April meeting. Counsel alleged that "new and additional information and circumstances" justified the reopening of the issue. Appellants were advised that they would be heard at the April 15, 1985, meeting. The Board took the issue under advisement pending a May decision. Id. at Board minutes of 4/15/85, at p. 2.

County Assessor Zarr wrote to Dr. Robert D. Benton seeking information regarding the process of boundary line changes. Dr. Benton responded in a letter dated April 23, 1985, to the effect that section 274.37 of the Iowa Code authorizes such action only when the two district boards agree to the change and the Area Education Agency approves. He also wrote that such requests are seldom granted by the board losing the territory "unless there is an exchange of territory with comparable assessed valuation and resident students." Previous Record. Appellants indicated that they or their counsel had informally approached the Sioux City board of directors regarding the proposal, and that the directors were amenable to the suggestion. Appellant Suzane Henderson testified that an unsuccessful attempt had been made to locate a comparable property in the Sioux City district to exchange for theirs in the District, but that the Board was unwilling to accept such an arrangement because the Sioux City family did not have children who would then attend in the District.

Although a letter to the directors from Superintendent Muller outlining the upcoming agenda for the special meeting on May 13 suggested a motion to go into closed session "to discuss possible litigation and petition," apparently the action taken at that meeting did not involve a closed session. No notation to that effect appears in the minutes as required by Iowa Code section 21.5(2). The Board did make a decision following discussion with Attorney Shull. The minutes do not reveal the Board's reasoning, but Appellants' request was denied unanimously. Previous Record, Board minutes of 5/14/85, at p. 1. A letter was then sent to the Appellants, signed by the superintendent, informing them that their petition had been denied. Again, no reason was given, but this was not the final word on the issue.

Attorney for Appellants again appeared before the Board on July 15 at a regular meeting seeking release from the District. This time the Board voted that evening following a brief discussion and again turned down the petition. Id., Board minutes of 7/15/85, at p. 1. The Appellants timely appealed on August 9, 1985, and this hearing followed.

II.
Conclusions of Law

The statutory basis for Appellants' request reads in pertinent part as follows:

> **Boundaries changed by action of boards — buildings constructed.**
>
> The boundary lines of contiguous school corporations may be changed by the concurrent action of the respective boards of directors at their regular meetings in July, or at special meetings called for that purpose. Such concurrent action shall be subject to the approval of the area education agency board but such concurrent action shall stand approved if the said board does not disapprove such concurrent action within thirty days following receipt of notice thereof. The corporation from which territory is detached shall, after the change, contain not less than four government sections of land.

Iowa Code § 274.37 (1985).

We have previously stated our recognition of the fact that this statute "provides a viable alternative to the protracted proceedings of a formal school reorganization under chapter 275." In re Kenneth Hoksbergen, 1 D.P.I. App. Dec. 86, 88. We continue to recognize the fact that the requirement for concurrent action by two boards protects both the integrity of the established boundaries and the interest of the individual districts in the education of its resident citizens. Id. Therefore, the State Board is reluctant to step in to overrule local decisions absent "sufficiently compelling reasons" that would "override the interests of the individual school districts." Id. Accord, In re Jerry Q. Beemer, 1 D.P.I. App. Dec. 155. We can find no independent statutory authority which would enable the State Board to direct the county assessor or auditor to effect the desired change. The chapter 290 appeal process calls for us to review the local board's decision, and precedent dictates the applicable standard to be met.

We are, therefore, looking to Appellants' reasons to see whether mere preference is at issue, id. at 156, or whether compelling reasons exist. In the alternative, we have also suggested that a board's "unreasonable refusal" will pave the way for reversal. In re Kenneth Hoksbergen, 1 D.P.I. App. Dec. at 88. In this latter respect we are somewhat troubled by the Board's failure to reduce to writing its reasons for the denials of Appellants' request. No justification was written into the Board minutes; letters written to Appellants advising them of the Board's decision were also devoid of reference to the basis for the Board's decision.

This fact, however troublesome, is not controlling. Our review of local board decisions is characterized as de novo. Cedar Rapids Community School District v. Arbore, et al., 1 D.P.I. App. Dec. 74; In re Delegardelle, 3 D.P.I. App. Dec. 220, 224. Both appellant and appellee have an opportunity to litigate fully the issues before the hearing panel. In this case, testimony from directors Baker and Graber evidenced the fact that the Board's denial was based on two grounds: the reluctance to set a precedent, or what is termed the "floodgates" argument, and the loss of revenue that the District would suffer as a result of lost territory and (potentially) fewer students.

To the first argument, Appellants have no answer other than denial. Short of a crystal ball, we cannot determine whether the granting of the instant request would indeed open the floodgates to ensuing, similar requests. Nevertheless, we recognize that such a reason is valid, absent compelling and unique reasons for making an exception.

To the second argument, Appellants suggest a compromise. As the District is currently educating only three children (the Carmichaels) whom it would lose to the Sioux City district, Appellants propose that the new boundary line not affect the Carmichaels as long as they continue to reside there or have children in schools. While such a suggestion is admirable, it does complicate an already complex situation. Furthermore, the suggestion does not address the loss to the District resulting from no longer including the assessed valuation of Appellants' and others' properties. See generally Iowa Code chapter 442 (1985). Where currently approximately one-half of each of the eight lots on the west side of the street is property taxed to the District, a change of boundary to the middle of Surrey Lane would eliminate the assessed valuation from the District. As the homes and land in this area have high assessed values, the loss would not be insignificant. Appellants' argument that such reasons are "self-serving" and "not in the best interest of education" is without merit. A board has to be responsible to fiscal concerns as well as educational ones.

The boundary line designation in this case has created an unusual situation. In effect, every two homes on the same side of the street fall into a different district than the succeeding two. We also do not doubt that taxing each property to two districts creates an administrative burden to the County auditor and County assessor. Nevertheless, we do not see the requisite "compelling reasons" for the requested change. It is clear that Appellants Henderson have a preference for the Sioux City schools; they pay tuition for their daughter to attend there. But the fact that the boundary line does not correspond to an identifiable line is, alone, insufficient to override the Board's decision here. There are no newly created "man-made barriers, such as large reservoirs" to justify a deviation from existing boundary. In re Kenneth Hoksberger, 1 D.P.I. App. Dec. at 88. Furthermore, the Board's reasons given at the hearing are valid and not insignificant.

Finding no compelling reasons and no unreasonable refusal, we decline to reverse the Board.

All motions or objections not previously ruled upon are hereby denied and overruled.

III
Decision

For the foregoing reasons the decision of the Sergeant Bluff-Luton Community School District Board of Directors made in this matter is hereby affirmed. Costs of this appeal under chapter 290, if any, are therefore assigned to Appellant.

September 11, 1986
DATE

LUCAS J. DEKOSTER, PRESIDENT
STATE BOARD OF EDUCATION

September 4, 1986
DATE

ROBERT D. BENTON, Ed.D.
DIRECTOR, DEPARTMENT OF EDUCATION
AND PRESIDING OFFICER