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The Times Examiner August 20, 2003

Contract to Construct Three Middle Schools 'Void'

District Illegally Declared Emergency

By Bob Dill

Circuit Court Judge John C. Few has granted Edward D. Sloan, Jr. a declaratory judgment that the School District of Greenville County "illegally declared an emergency, when no emergency existed," in order to avoid the required competitive bidding process on the construction of three middle schools.

Court documents indicate that each of the three identical determinations is invalid in its form, for lack of a sufficient factual justification for using an emergency exception, and that the contracts procuring the construction are "unquestionably void" for failure to strictly comply with the procurement statutes.

The suit names the school board members as individual defendants in the case. At the time of the illegal action, J. Coleman Shouse, currently a principal partner in Institutional Resources, the firm the board selected to manage all construction projects, was chairman of the Greenville County School Board.

The district failed to use competitive sealed bidding to procure the construction of facilities at Greer Middle School, Mauldin Middle School and Riverside Middle School.

The court found that "the district decided to declare an emergency and procure the construction of these three middle schools using the emergency exception to competitive sealed bidding requirements.

To justify the use of the emergency exception, the district argued, "These three middle schools were needed to alleviate critical overcrowding conditions in certain existing middle schools."

The court found that the overcrowding situation at the schools did not arise suddenly. "The district had articulated the need for these schools as early as 1993, seven years before the 1999 opening... The factual record shows a clear lack of immediacy and suddenness.

"The court finds that the facts presented clearly show that the district was not faced with an emergency, and furthermore, that the district knew it was not faced with an emergency. Therefore, the use of the emergency exception to avoid the normal procurement process was an invalid and illegal use of the emergency exception," the court concluded.

Sloan was represented in the case by the Carpenter Law Firm.