

CROSSWAY COMMUNITY, INC.

Appellant

v.

MONTGOMERY COUNTY BOARD
OF EDUCATION,

Appellee.

BEFORE THE

MARYLAND

STATE BOARD

OF EDUCATION

Opinion No. 11-07

OPINION

INTRODUCTION

In this appeal, Crossway Community, Inc. (“Crossway”) challenges the decision of the Montgomery County Board of Education (“local board”) to deny its application to establish a public charter school in Montgomery County. The local board has responded to the appeal maintaining that its decision is not arbitrary, unreasonable or illegal. Crossway Community filed a reply to the local board and the local board filed surreply.

FACTUAL BACKGROUND

Crossway is a nonprofit organization that has been operating in Montgomery County for approximately 20 years. The organization operates several programs out of its Kensington campus, including the Crossway Montessori Children’s Program, an early intervention center for children ages 3 months to 6 years. (Local Bd’s. Response to App., Ex. A, Superintendent’s 6/8/10 Memorandum to Local Bd.).

On January 27, 2010, Crossway presented a letter of intent to submit a charter school application to the Deputy Superintendent of Montgomery County Public Schools (“MCPS”). Byrne Aff., ¶4. On February 18, 2010, Crossway’s CEO, Kathleen Guinan, and Crossway’s Deputy Director, Ann Byrne, met for an hour and a half with Lori-Christina Webb, Executive Director for MCPS, and Chrisandra Richardson, Associate Superintendent in the Office of Special Education and Student Services, to discuss Crossway’s proposed application. *Id.* Crossway submitted its application to establish a public charter school on March 1, 2010. The application seeks to expand Crossway’s existing private school Pre-K/K Montessori program to create a public charter school encompassing Pre-K/K through sixth grade. (*Id.*).

MCPS reviewed the application using a two phase process. During the first phase of the process, a non-substantive technical review occurs. Technical review focuses on the technical completion of the application such as whether the application was timely filed and contained all the necessary components. MCPS Regulation CFB-RA (IV)(C)(1). MCPS found Crossway’s application to be technically complete and it advanced to the next phase of the review process.

(Appeal, Ex. 1).

Phase two of the process is the substantive review which consists of review by an internal and external review panel. See MCPS Regulation CFB-RA (IV)(C)(2) & (3). If the MCPS internal reviewers determine that the application meets criteria in all areas evaluated, the external review is initiated. MCPS Regulation CFB-RA(IV)(C)(2)(e). During external review, a group of reviewers external to MCPS, who are either experts in the field of education or key stakeholders in the community, review the application and make recommendations to the Deputy Superintendent on whether the application should be approved or not. MCPS Regulation CFB-RA (IV)(C)(3). In this case, it is undisputed that the internal and external reviews occurred simultaneously.

On May 6, 2010, Crossway representatives attended a meeting with MCPS reviewers to respond to questions based on the application review. The meeting lasted a little over one hour, during which time Crossway representatives answered questions posed by reviewers. Byrne Aff., ¶8. Thereafter, Crossway submitted supplemental remarks addressing the four areas on which the reviewers had focused their questions. (Local Bd's. Response, Ex. B; Harkness Aff., ¶14).

The Superintendent issued a June 8, 2010 memorandum recommending that the local board deny Crossway's application. (Appeal, Ex. 1). The memorandum pointed out various deficiencies noted by the review panel including concerns about the comingling of private and public funds; the recruitment, evaluation, and training of teachers; lack of detail in the food and transportation plans; and facility space. (*Id.*).

At the local board's June 8, 2010 meeting, Crossway made a brief presentation to the local board prior to its consideration of the application. Thereafter, the Superintendent made opening statements introducing Crossway's application for review by the board. MCPS staff made a presentation on the review of the application and noted the concerns raised through the evaluation and review process. (Local Bd's. Response to Appeal, Ex. D).

Several members of the board then spoke about their concerns with the application prior to the board taking a vote. The local board unanimously voted to reject Crossway Community's application.

STANDARD OF REVIEW

In charter school application denial cases, this Board uses the standard of review for cases and controversies involving the rules and regulations of the local board. Under that standard, the State Board considers the decision of the local board to be *prima facie* correct. The State Board will not substitute its judgment for that of the local board unless the local board's decision is arbitrary, unreasonable, or illegal. See COMAR 13A.01.05.05(A).

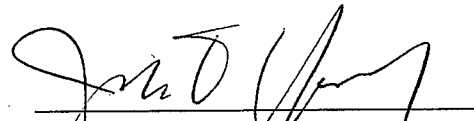
ANALYSIS

Although not raised as an issue in the appeal, we find that the local board has failed to provide any rationale for its decision denying Crossway's application. We addressed this issue in another opinion being issued this month, *Global Gardens Pub. Charter Sch. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 11-01, attached. The Global Gardens' case and this one were decided at the same local board meeting and the local board conducted its vote in the same manner. The analysis we used in the Global Gardens' case is applicable here.


In its appeal, Crossway also raises arguments similar to the ones raised by Global Gardens in its appeal. Specifically, Crossway maintains that the application and review process was unfair because it lacked sufficient opportunity for technical assistance and application feedback from the school system, and because MCPS violated its own charter school application review policy by conducting the internal and external reviews simultaneously. Crossway also makes the same argument concerning the notion that some board members utilized a "ready for prime time" evaluation standard. We addressed these matters in the Global Gardens' case and believe the same analysis applies here.

CONCLUSION

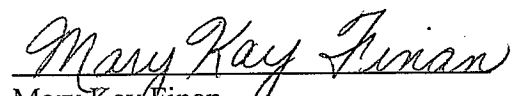
Because we find that the local board has failed to provide any rationale for its decision, we reverse and remand this case so that the local board may reconsider its decision in light of the rulings we have made in this case, and in *Global Gardens Pub. Charter Sch., Inc. v. Montgomery County Bd. of Educ.*, MSBE Op. No. 11-01. We expect that such reconsideration shall occur within 90 days of the date of this decision.



James H. DeGraffenreidt, Jr.
President



Charlene M. Dukes
Vice President



Mary Kay Finan

S. James Gates, Jr.
S. James Gates, Jr.

Luisa Montero-Diaz
Luisa Montero-Diaz

Absent
Sayed M. Naved

Madhu Sidhu
Madhu Sidhu

Gulrie M. Smith, Jr.
Gulrie M. Smith, Jr.

Donna Hill Staton
Donna Hill Staton

Ivan C.A. Walks
Ivan C.A. Walks

Kate Walsh
Kate Walsh

January 25, 2011