
No. 126444

In the
Supreme Court of Illinois

BOARD OF EDUCATION OF RICHLAND SCHOOL DISTRICT,
NO. 88A, an Illinois public school district,

Plaintiff-Appellee,

v.

CITY OF CREST HILL, an Illinois non-home rule municipal corporation,

Defendant-Appellant.

On Appeal from the Illinois Appellate Court,
Third Judicial District, No. 3-19-0225.
There Heard on Appeal from the Circuit Court of the Twelfth Judicial Circuit,
Will County, Illinois, No. 2018 CH 19.
The Honorable **John C. Anderson**, Judge Presiding.

BRIEF OF PLAINTIFF-APPELLEE

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ORAL ARGUMENT REQUESTED



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STATEMENT OF THE FACTS

The Appellee, Board of Education for Richland School District 88A (the “District”) is an Illinois public school district located in Will County, Illinois. (C7). The Appellant, City of Crest Hill (the “City”) is an Illinois non-home rule municipal corporation located in Will County, Illinois. (C7). In 2017, the City moved forward with the establishment of a TIF District called the Weber Road Corridor TIF District (the “TIF District”) purportedly pursuant to the provisions of the TIF Act. (C7). The TIF District consists of real property located in Will County, Illinois. (C7).

The TIF Act sets forth numerous jurisdictional and mandatory procedural and substantive requirements to create a tax increment financing district. 65 ILCS 5/11-74.4-1 *et seq.* In order to properly create the TIF District, the City must follow the requirements set forth in the TIF Act. Specifically, The TIF Act requirements for the creation of the TIF District relevant to this matter include, but are not limited to:

- A. The area comprising the TIF District must include “only those contiguous parcels of real property and improvements thereon substantially benefited by the proposed redevelopment project improvements.” 65 ILCS 5/11-74.4-4(a).
- B. The City must provide administrative support to the joint review board for the TIF District (“Joint Review Board”), comprised of appointees of certain taxing districts impacted by the TIF District, during the Joint Review Board’s review of the TIF District and the process of making a recommendation as to whether or not the proposed TIF District should be created. 65 ILCS 5/11-74.4-5(b).

C. The City must hold a public hearing in regard to the proposed TIF District, which public hearing may not be adjourned until the Joint Review Board has finished its work on the TIF District. 65 ILCS 5/11-74.4-5(b).

D. If the Joint Review Board recommends the proposed TIF District be rejected, the City must meet and confer with the Joint Review Board, attempt to resolve the issues raised by the Joint Review Board, and submit or resubmit a Redevelopment Plan and Project for the TIF District. 65 ILCS 5/11-74.4-5(b).

E. The City must wait until the Joint Review Board has completed its work on the TIF District before voting on the TIF Ordinances. 65 ILCS 5/11-74.4-5(b).

Contiguity

The TIF Act requires that the parcels within the TIF District be contiguous. 65 ILCS 5/11-74.4-4(a). A map of the final, approved version of the TIF District includes a marked “excluded area” between the southeast and northwest sections. (C1303; C1330; C1349; C1354). In fact, the boundaries and layout of the TIF District changed many times prior to final approval. (C1332). The “excluded area” contained in the final configuration of the TIF District, includes both privately owned, unincorporated property, as well as a portion of a natural gas pipeline right-of-way on unincorporated property. (C1330).

City staff relied exclusively on their hired consultants for purposes of determining contiguity of the TIF District. (C1304; C1365). The only contiguous connection between the eastern section of the TIF District and the northwest section of the TIF District is a roadway. (C1334). Importantly, the City does not rely on the intersection of Weber and Division to the southwest of the “excluded area” to establish contiguity for the

TIF District. (C1334). The City also does not rely on jumping the entire “excluded area” to establish contiguity for the TIF District. (C1334). In fact, the entire basis for establishing contiguity for the TIF District relies exclusively on the ability to jump the natural gas right of way along the northeast portion of the “excluded area”. (C1334). The section of the natural gas right of way the City relies on to establish contiguity in the TIF District to connect an over 74-acre parcel to the southeastern portion of the TIF District is 234.9 feet.

Proceedings of the Joint Review Board

In addition to the contiguity requirements of the TIF Act, the TIF Act also requires the City to submit its proposal to create the TIF District to the Joint Review Board. 65 ILCS 5/11-74.4-5. The Joint Review Board consists of “a representative selected by each community college district, local elementary school district and high school district or each local community unit school district, park district, library district, township, fire protection district, and county that will have the authority to directly levy taxes on the property within the proposed redevelopment project area at the time that the proposed redevelopment project area is approved, a representative selected by the municipality and a public member.” 65 ILCS 5/11-74.4-5(b). The purpose of the Joint Review Board is to review the proposed TIF District and make a recommendation on whether or not the TIF District should be created. *Id.*

Pursuant to the TIF Act, the Joint Review Board must meet, review “the public record, planning documents and proposed ordinances approving the” TIF District, and make an initial written recommendation regarding the proposed TIF District. 65 ILCS 5/11-74.4-5(b). Because the Joint Review Board consists of representatives selected by

affected taxing bodies, the TIF Act requires that the City “provide administrative support to the board.” 65 ILCS 5/11-74.4-5(b).

The Joint Review Board for the TIF District at issue met for the first time on October 10, 2017. (C1305; C1392). At the October 10, 2017 Joint Review Board Meeting a vote to approve the TIF plan failed, and the meeting was continued to November 6, 2017 for further discussion and a final vote on the TIF. (C1305; C1392). At no time between October 10, 2017 and November 6, 2017 did the City meet with the JRB to further discuss the TIF District. (C1305; C1393).

On November 6, 2017, the Joint Review Board met and made a formal vote to reject the establishment of the TIF District. (C1306; C1393). The TIF Act requires that the City meet and confer with the Joint Review Board after the Joint Review Board recommended rejection of the proposed TIF District, within thirty (30) days after the recommendation of rejection was made. 65 ILCS 5/11-74.4-5(b). Given the 30-day window to meet and confer per 65 ILCS 5/11-74.4-5(b), on November 6, 2017, the Joint Review Board also voted unanimously to continue its meetings to December 4, 2018. (C1306; C1393).

The TIF Act also requires that the City hold a public hearing regarding the proposal to create the TIF District and requires that the City wait to adjourn the public hearing until the Joint Review Board completed its work. 65 ILCS 5/11-74.4-5(b). Before the public hearing is adjourned, the Joint Review Board must complete its work. 65 ILCS 5/11-74.4-5(b). However, the City held and adjourned the public hearing on the TIF District on the evening of November 6, 2017, though the Joint Review Board had passed a motion earlier that day setting another meeting of the Joint Review Board for

December 4, 2017, which motion the City Administrator voted in favor of herself. (C1307; C1394).

Subsequent to the November 6, 2017 Joint Review Board Meeting, the City never met and conferred with the Joint Review Board regarding its vote to reject establishment of the TIF District, and never submitted or resubmitted a Redevelopment Plan and Project for the TIF District addressing the matters that caused the Joint Review Board to reject the initial Redevelopment Plan and Project. (C1307; C1393-94; C1415). The TIF Act requires that the City wait until the Joint Review Board completes its work before acting on the TIF Ordinances. 65 ILCS 5/11-74.4-5(b). The purpose of requiring the City to wait for the Joint Review Board to complete its work before the City may act on the TIF Ordinances is that if the Joint Review Board recommends rejection of the TIF District twice, first in a written decision, and then again within thirty (30) days after the written decision is made, the City may only adopt the TIF Ordinances by a three-fifths (3/5) vote of the corporate authorities. 65 ILCS 5/11-74.4-5(b). Nonetheless, the City approved the TIF Ordinances on November 20, 2017, less than 30 days after the Joint Review Board recommended dial on November 6, 2017. (C1310; C1415).

On December 4, 2017, several members of the Joint Review Board arrived at City Hall and were waiting to be let into a meeting room to hold the meeting, when two employees came into the hallway and informed the Joint Review Board the meeting had been cancelled. (C1386). Further, the City did not publish notice or prepare an agenda for the Joint Review Board's December 4, 2017 meeting. (C1395).

ARGUMENT

The Appellate Court correctly found that the TIF District lacked the requisite contiguity, and that while contiguity for purposes of the TIF Act looks to the common law definition of contiguity commonly applied in annexation cases, it cannot rely on statutory exceptions found only within the annexation statutes. Given this ruling, the Appellate Court did not expressly address the procedural fallacies by the City that ran afoul of the TIF Act, only referencing the City's "casual approach towards its procedural obligations," yet that "casual approach" also warrants affirming the Appellate Court's holding. For the reasons set forth below, the Appellate Court properly applied existing law to find a complete lack of contiguity in the TIF District, and correctly rejected the City's misplaced arguments regarding annexations that it continues to advance before this Court. As such, this Court should affirm the Appellate Court's reversal of the Trial Court's decision granting of summary judgment to the City and enter judgment in favor of the District.

I. The Appellate Court Correctly Found The TIF District Is Not Contiguous

In its detailed opinion, the Appellate Court properly analyzed contiguity for purposes of a TIF District, concluding that the TIF District at issue lacked the requisite contiguity and the City could not rely on statutory exceptions from the annexation statutes. The City, in its opening brief before this Court, argues essentially that you can't adopt the common law definition of contiguity derived from annexation law without also adopting all statutory exceptions contained in the Illinois statutes. The Appellate Court correctly rejected this argument, as it lacks any basis in the law, yet the City now has expanded its argument with a hyperbolic threat that TIF District's throughout the State

will be invalidated by the Appellate Court's decision. However, for the reasons outlined below, the City's argument remains nothing more than another misplaced attempt to distract this Court from the City's failure to follow existing laws applicable to creation of a TIF.

A. Contiguity Under The TIF Act.

The City, in its opening brief before this Court, appears to have abandoned any argument regarding contiguity except that would not otherwise rely on expanding the definition to include statutory exceptions contained in the annexation statutes. Nonetheless, for purposes of completeness, the District will address contiguity as a whole.

The TIF Act requires that the parcels within the TIF District be contiguous. 65 ILCS 5/11-74.4-4(a). To be contiguous, the parcels must "touch or adjoin one another in a reasonably substantial physical sense." *Id.*; *Henry County Bd v. Village of Orion*, 278 Ill.App.3d 1058, 1067 (3rd Dist. 1996). Point-to-point touching or cornering is generally not sufficient to satisfy the requirement of contiguity. *People ex rel. County of St. Clair v. City of Belleville*, 81 Ill.App.3d 379, 388, (1980); and *People ex rel. Hanrahan v. Village of Wheeling*, 42 Ill.App.3d 825 (1st Dist. 1976). Additionally, the use of a narrow "strip" of land or a street to connect a parcel with the rest of the territory has been held to be insufficient to meet the requirements of contiguity. *In re Petitioner to Annex Certain Territory to the Village of North Barrington*, 144 Ill.2d. 353 (1991). Failure to establish contiguity will serve to invalidate a TIF ordinance. *Henry County Bd.*, 278 Ill.App.3d at 1067; *Geisler v. City of Wood River*, 383 Ill.App.3d 828 (5th Dist. 2008).

The City relies almost exclusively on *Henry* for its expansive definition of contiguity for TIF purposes. However, a clear reading of *Henry* provides no support for this conclusion. The Court in *Henry* adopted the definition of contiguity derived from annexation case law, requiring a substantial physical touching. *Henry County Bd.*, 278 Ill.App.3d at 1067. The *Henry* Court then found, based on that definition, that utilizing the length of streets that border or extend forth from a TIF district does not meet the TIF Act's statutory requirement for contiguity. *Id.* At no time did the *Henry* Court address adoption of anything other than the common law definition of contiguity as derived from annexation cases.

The City agrees with this definition but fails to make the distinction between this general definition of contiguity as derived from annexation cases, and annexation using the explicit statutory exceptions contained in the annexation statutes. This is a significant difference, for where contiguity of TIF Districts are at issue, it is the general definition, i.e., the one set forth in *Henry* that applies, and reliance on the exceptions contained outside the TIF Act is improper. A plain reading of *Henry* supports this conclusion, as that Court expressly adopted the general definition that "has been long defined in annexation **cases**" and not the language of the annexation statute itself.

Here, the length of Randich Road is the only connection between the eastern most corner of the Northwestern portion and the northern most corner of the remainder of the TIF. Similarly, like the parcels in *Henry*, the Northwestern portion and the remainder are only joined by utilizing the length of the streets that border or extend from the parcels. Accordingly, the TIF District fails to meet the test of contiguity as a matter of law, as directly applied from *Henry*.

B. The TIF District Contains No Substantial Common Boundary As Required By *Henry*.

The City bases its contiguity argument solely on the 234.9-foot section of the natural gas right of way to connect an over 74-acre parcel to the southeastern portion of the TIF District, as evidenced by Jeanne Lindewall's own testimony. As discussed above, although contiguity for purposes of a TIF District relies on the general common law definition in annexation cases, *see Henry County Board*, 278 Ill.App. 3d at 1067 ("tracts of land that touch or adjoin one another in a reasonably substantial physical sense"), such common law definition does not include the statutory exceptions contained in the annexation statutes for public utility right of ways, particularly, as in this case, when such right or way is not included in the TIF District or the incorporated boundaries of the City. As such, the City's reliance on being able to "jump" the utility right of way along this 234.9-foot section is misplaced, as discussed further below.

Regardless, assuming, *arguendo*, there is actual, physical touching between the Northwest portion and the remainder, courts have held that there must be "substantial physical touching." Courts have held that irregular shapes are permissible, provided there is a significant amount of the property touching the other, such as more than 500 feet. *In re petition for Annexation of Certain Property for Village of Plainfield*, 267 Ill.App.3d 313 (3rd Dist. 1994). *See also LaSalle Bank Nat. Ass'n v. Village of Bull Valley*, 355 Ill.App.3d 629 (2nd Dist. 2005) (297 feet of bordering parcel insufficient to establish contiguity on its own).

Based on this authority, it is clear that the common boundaries connecting the Northwestern portion and the remainder of the TIF District do not constitute substantial physical touching to establish contiguity as a matter of law. The Appellate Court

correctly found as such, and the City does little to challenge this finding. The City instead contends that the Appellate Court can't uphold the definition of contiguity set forth in *Henry* without also finding all statutory exceptions from the annexation statutes also apply to TIF Districts. This conclusion finds no basis in the law, and it is in fact the City's position that runs afoul of the holding in *Henry*, as well as the general rules of statutory construction, as addressed further below. *Henry* requires substantial, physical touching – period. That substantial, physical touching does not exist in this case.

The City fleetingly argues that the 234.9-foot portion it relies on for purported contiguity is sufficient under the applicable case law but ignores the fact that the 234.9 feet is not directly contiguous, but rather abuts a public utility right of way excluded from the TIF District, on the side of which is additional territory in the TIF District. (C1334; C1357). The City admits that the public utility right of way is unincorporated, and therefore excluded from the TIF, but fails to address how it can jump this unincorporated right of way, which as Justice Holdridge in his concurrence also noted is not technically a right of way but rather property owned in fee simple, to create that substantial, physical touching. This is telling because it can't. Simply put, that substantial, physical touching doesn't exist, thereby invalidating the TIF District.

C. Rules of Statutory Construction Compel The Ruling That Statutory Exceptions For Annexations Are Inapplicable To TIF Districts.

The City's entire argument rests on the use of statutory exceptions contained in 65 ILCS 5/7-1-1 (the annexation statute) for purposes of TIF contiguity. Reliance on those specific statutory exceptions not contained in the TIF Act is improper where courts have looked solely to the common law definition of contiguity, as outlined above. Even the *Henry* Court outlined this basic principle of statutory construction, noting, when

determining the proper definition of contiguity for purposes of the TIF Act, that “when interpreting a statute, courts must ascertain the intent of the legislature using the language of the statute itself.” *Henry County Board*, 278 Ill.App.3d at 1067. The City asks this Court to ignore this basic principle, and to improperly serve as the legislature rather than the judiciary.

The City relies on Section 7-1-1 of the Illinois Municipal Code, 65 ILCS 5/7-1-1, for its conclusion that the TIF District at issue is contiguous. Specifically, the City, in its brief, notes that the City exclusively relied on the second sentence of 7-1-1 to find contiguity in the TIF District.

Section 7-1-1 of the Illinois Municipal Code, 65 ILCS 5/7-1-1, i.e., the annexation statute, in the first sentence, requires contiguity for annexations, and then goes on in the second sentence to state “**for the purposes of this Article** [i.e., annexation], any territory to be annexed to a municipality shall be considered to be contiguous to the municipality notwithstanding that the territory is separated from the municipality by a...public utility right of way.” (emphasis added). Clearly, the legislature intended that second sentence to only apply to annexations, and not to other statutes such as the TIF Act.

Contrast that language contained outside of the TIF Act with Section 11-74.4-4(q) of the TIF Act, which states:

[A municipality with a TIF District may] [u]tilize revenues, other than State sales tax increment revenues, received under this Act from one redevelopment project area for eligible costs in another redevelopment project area that is: (i) contiguous to the redevelopment project area from which the revenues are received; (ii) separated only by a public right of way from the redevelopment project area from which the revenues are received; or (iii) separated only by forest preserve property from the redevelopment project area from which the revenues are received if the closest boundaries of the redevelopment project areas that are separated by the forest preserve property are less than one mile apart.

65 ILCS 5/11-74.4-4(q). While the annexation statute allows for contiguity to exist by jumping public utility rights of way, the TIF Act expressly allows for revenue sharing between different TIF Districts when separated by a public right of way. This court must give meaning to the actual text of the statute itself, as it represents the legislature's intent. *Murphy-Hylton v. Lieberman Management Services, Inc.*, 2016 IL 120394, ¶ 25 (December 1, 2016). The fact that the TIF Act calls out this distinct situation supports the legislature's intent that the statutory exception allowing the jumping of rights of way for annexations is not contemplated for purposes of establishing contiguity for a TIF District.

II. The Appellate Court's Decision Does Not Invalidate Any Other TIF Districts.

In what appears to be an attempt to persuade this court with fear, rather than the law, the City next turns to the unsubstantiated argument that application of the Appellate Court's decision would invalidate TIF District's throughout the state that include properties separated by a railroad, a forest preserve, a river, or even a public street or roadway. The City attached maps to its brief of four Illinois TIF Districts it claims are examples of TIF District's that are invalidated by the Appellate Court ruling. This argument is nothing more than a red herring, completely inapplicable to this case.

First, it is important to note that this argument was raised for the first time by the City before this Court. At no time before the Trial Court or the Appellate Court did it raise this argument or attach any examples of other TIF Districts throughout the state. Parties may not raise arguments for the first time on appeal. *See Hansen v. Baxter Healthcare Corp.*, 198 Ill.2d 420, 429 (2002). As such, this argument should be deemed waived and summarily dismissed by this Court.

Notwithstanding, the City's argument still fails as a practical matter. Although the TIF Districts used by the City as examples do contain railroad tracks, rivers, and roadways within the TIF Districts themselves, none of those "physical barriers" are excluded from those TIF Districts, as is the utility right of way in the current matter. The District is not arguing that a TIF District cannot be contiguous if it contains this characteristic; it is arguing, as the Appellate Court recognized, that a TIF District cannot exclude an area that cuts a TIF District in half, and then rely on a statutory annexation exception to jump that excluded right of way and assert contiguity.

Despite the City's contention, and the arguments raised by the Illinois Municipal League in its amicus brief, the facts of this case have no bearing on any of the established TIF Districts throughout the State of Illinois that were created in accordance with the TIF Act. What is at issue is the TIF District in this case, one that the City hastily created with no regard for the statutory requirements contained in the TIF Act itself. The City's attempts to distract this Court from this simple issue should be regarded as nothing more than a desperate act to salvage the City's inability to comply with the law.

III. The City Clearly Violated The Procedural Provisions Of The TIF Act.

Although the Appellate Court found no need to address the procedural deficiencies perpetrated by the City, given the clear lack of contiguity as noted above, these deficiencies still bear mention to this Court. The procedural requirements of the TIF Act are all jurisdictional and mandatory requirements. *See IP Plaza, LLC v. Bean*, 2011 IL App (4th) 110244 (emphasizing the use of the term "shall" in the TIF Act to denote a requirement as mandatory). Specifically, the District outlined, and the record supports, the following procedural missteps by the City:

1. Failure to provide administrative support for the Joint Review Board by failing to provide and post agendas for the Joint Review Board in compliance with the Illinois Open Meetings Act, and refusing to provide adequate meeting space for the December 4, 2017 Joint Review Board meeting;
2. Prematurely holding and adjourning a public hearing regarding the proposal to create the TIF District before the Joint Review Board completed its assessment and recommendation to the City;
3. Failure and refusal to meet and confer with the Joint Review Board during the thirty (30) day period from November 6, 2017 to December 4, 2017 to attempt to resolve the issues in the issues raised in the Joint Review Board's written report after the Joint review Board had recommended rejection of the proposed TIF District; and
4. Premature approval of the TIF Ordinances before the Joint Review Board could complete its assessment.

The above violations of mandatory requirements of the TIF Act result in the TIF Ordinances being invalid, illegal, and void *ab initio*.

A. The City Failed To Meet And Confer With The Joint Review Board As Required By The TIF Act.

On November 6, 2017, the Joint Review Board voted and submitted its written report recommending rejection of the proposed TIF District. Pursuant to 65 ILCS 5/11-74.4-5(b), the City is required to meet and confer with the Joint Review Board within thirty days. It is undisputed that no such meet and confer occurred. Instead, and despite the Joint Review Board voting unanimously on November 6, 2017 to continue its business to December 4, 2017, the City proceeded to convene and close the required public hearing on the evening of November 6, 2017, which also violated 65 ILCS 5/11-74.4-5(b). Moreover, the City, on November 20, 2017, without having waited the thirty days, and without having met and conferred with the Joint Review Board, voted to approve the TIF Ordinances in violation of 65 ILCS 5/11-74.4-5(b).

The Joint Review Board had not finished its business as of November 6, 2017 when the City voted to reject establishment of the TIF District. Despite the plain language of Section 11-74.4-5(b) of the TIF Act, 65 ILCS 5/11-74.4-5(b), which requires the City, upon a negative recommendation by the JRB, to within 30 days “resubmit the plan or amendment...During this period, the municipality will meet and confer with the board and attempt to resolve the issues set forth in the board’s written report,” the City refused to do so. Clearly, the TIF Act does not contemplate the work of the JRB having been completed upon the making of a negative recommendation.

The City does not get to unilaterally decide to ignore the provisions of the TIF Act. When it received the negative recommendation, whether the City felt it lacked specificity or not, the TIF Act requires the City to meet and confer with the City in an attempt to resolve the differences. The TIF Act does not require the City to change anything with regard to the TIF if it doesn’t want to; it simply requires the 30 day meet and confer.

This interpretation is directly supported by the plain language of the TIF Act. Per 65 ILCS 5/11-74.4-5(b), in the event of a recommended rejection, “the municipality will have 30 days within which to **resubmit the plan** or amendment...During this period, the municipality will meet and confer with the board and attempt to resolve the issues set forth in the board’s written report...” (emphasis added). The TIF Act does not require the City to make any amendments, only that it allow 30 days during which it meets and confers with the JRB in an attempt to resolve the issues. If the issues can’t be resolved, the vote can proceed and the TIF Ordinances can be approved in accordance with the TIF Act. What can’t happen, however, is for the City to simply ignore the requirements of

11-74.4-5(b) and unilaterally choose which procedural requirements to follow, which is what the City did.

B. The City Failed To Provide Administrative Support For The December 4, 2017 Joint Review Board Meeting.

The City also failed to provide any administrative support for the December 4, 2017 Joint Review Board Meeting. The City failed to publish notice or prepare an agenda and failed to provide any meeting space for the December 4, 2018 Joint Review Board meeting. This is a clear violation of the TIF Act.

Moreover, the fact that the sent a letter to the JRB on November 20, 2017 purportedly cancelling the December 4, 2017 JRB meeting, didn't relieved the City from any requirement to provide administrative support for the December 4, 2017 meeting as required by the TIF Act. The Mayor was not even a member of the JRB, and therefore had no authority to cancel the Joint Review Board meeting. His November 20, 2017 letter therefore carried no legal effect as to the Joint Review Board and its scheduled business.

These clear violations of the mandatory procedural requirements of the TIF Act warrant invalidation of the TIF District itself. As the Appellate Court noted, the City took a "casual approach" toward these requirements. Although it follows that the City's "casual" approach to compliance with the TIF Act's contiguity requirements would percolate into its "casual" disregard for the TIF Act's procedural requirements, this Court should not allow the City to benefit from this "casual approach."

CONCLUSION

For all the foregoing reasons, this Court should affirm the decision of the Appellate Court reversing the decision of the Circuit Court and enter judgment in favor of the District.

Respectfully submitted,

**PLAINTIFF-APPELLEE BOARD
OF EDUCATION OF RICHLAND
SCHOOL DISTRICT NO. 88A**

/s/ Howard C. Jablecki
One of its Attorneys

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CERTIFICATE OF COMPLIANCE

I, Howard C. Jablecki, hereby certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the appendix, if any, is 17 pages.

/s/ Howard C. Jablecki

Howard C. Jablecki

NOTICE OF FILING and PROOF OF SERVICE

In the Supreme Court of Illinois

BOARD OF EDUCATION OF RICHLAND)	
SCHOOL DISTRICT NO. 88A,)	
)	
<i>Plaintiff-Appellee,</i>)	
)	
v.)	No. 126444
)	
CITY OF CREST HILL,)	
)	
<i>Defendant-Appellant.</i>)	

The undersigned, being first duly sworn, deposes and states that on the February 26, 2021, the Brief of Plaintiff-Appellee was electronically filed and served upon the Clerk of the above court. Service of the Brief will be accomplished by email as well as electronically through the filing manager, Odyssey EfileIL, to the following counsel of record:

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Within five days of acceptance by the Court, the undersigned states that 13 paper copies of the Brief bearing the court's file-stamp will be sent to the above court.

/s/ Howard C. Jablecki

 Howard C. Jablecki

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct.

/s/ Howard C. Jablecki

 Howard C. Jablecki