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UPPER DARBY SCHOOL DISTRICT FILES COURT CHALLENGE TO PROTECT THEIR PROPERTY RIGHTS REGARDING DISTRICT-OWNED LAND IN CLIFTON HEIGHTS

Clifton Heights Borough forces the School District to file procedural challenge to four recently passed ordinances that would unfairly limit their ability to ease school overcrowding and build a new 21st Century Middle School

Upper Darby, PA – Upper Darby School District, faced with overcrowding in their Elementary and Middle Schools, has for the last several years conducted a thorough and transparent process to reduce class sizes and modernize their school buildings. Today, Upper Darby School District filed in court a challenge to protect their property rights and ease classroom overcrowding by building a new 21st Century Middle School on District-owned land in Clifton Heights.

“Every Upper Darby student can achieve in a diverse and loving school environment, and our students have a civil right to the best education possible,” said Superintendent Dan McGarry. “That starts with safe, modern classrooms that are not overcrowded. The District remains open to working with the Borough and its constituents to come to a mutually beneficial resolution regarding the District’s middle school project. A new middle school in Clifton Heights will be a modern learning environment and enhance the Clifton sports program with new fields and a new gym.”

Clifton Heights Borough forced The District to take this action to protect their property rights because Clifton Heights Borough failed to comply with the statutory procedures for notice. This new middle school represents Phase 1 of a multi-year, multi-step process to improve the learning environments for Upper Darby students across the district.

A new middle school will create greater educational equity and ease overcrowding at Beverly Hills Middle School and Drexel Hill Middle School. The district will be able to improve existing learning environments by eliminating the reliance on current, outdated modular units which were intended for temporary use on both Beverly Hills and Drexel Hills Middle Schools’ campuses. A link to the plans can be accessed here:

[https://go.boarddocs.com/pa/udar/Board.nsf/files/BCLPQ964CCE6/\\$file/UDSD_2019_05_28%20UPDATE%20opt%20bob.pdf](https://go.boarddocs.com/pa/udar/Board.nsf/files/BCLPQ964CCE6/$file/UDSD_2019_05_28%20UPDATE%20opt%20bob.pdf)

A link to the 3D rendering can be found here. Click highlighted areas for 360 degree views:
<https://drive.google.com/open?id=1i5AcTuVgEOtM9zhDUmDBzYabhtv0RrIF>

- The District is filing a procedural challenge to the validity of four ordinances adopted by the Borough of Clifton Heights on May 28, 2019. The Ordinances, known as Ordinance Nos. 867, 868, 869, and 870, made numerous amendments to the Borough's Zoning Ordinance and Subdivision and Land Development Ordinance. Many of the provisions appear designed to attempt to thwart the District's proposed development of a new middle school. For instance, one of the ordinances prohibits the building of a structure to one that is no more than twelve (12) feet high which, in effect, limits the construction of a school on the district-owned property.
- The District is constrained to take this action to protect its property rights because the Borough failed to comply with the statutory procedures for notice and enactment of zoning and land development ordinances under the Pennsylvania Municipalities Planning Code.
- Among other defects in the enactment, the Borough failed to hold a statutorily required "public hearing" because the Borough wrongfully precluded the District from exercising its right to provide public comment at the Borough's hearing on May 28, 2019.
- In rushing to pass the Ordinances, the Borough also failed to comply with statutory procedures because it: (i) failed to publish a notice of Ordinance 869 that summarized the provisions in reasonable detail and (ii) failed to provide a copy of Ordinance No. 870 for comment by the Delaware County Planning Commission prior to enactment as required by statute.
- As a result of these defects, members of the public were deprived of proper notice and the right to be heard.

The action is being filed today with the Court of Common Pleas of Delaware County. The District was required to file the action at this time because of a 30-day deadline to appeal defective ordinances. The District anticipates that the Court will issue a briefing and argument schedule in the coming weeks. The District remains open to working with the Borough and its constituents to come to a mutually beneficial resolution regarding the District's middle school project.

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