

Plaintiffs add motion to civil case concerning old GHS

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"We are asking the court to direct them [the Galion board of education] to use the Galion city law director to represent them in this case," said John Barga, attorney for the plaintiffs who are asking the board of education to save the old high school.

"Instead of spending money on two Cleveland law firms," Barga said, "they should be using their own legal council."

On Jan. 14, legal action was filed against the Galion board of education asking the court to stop the board from tearing down the old Galion High School. An agreement was reached to complete the asbestos abatement, which was already in progress, with a view to remodel. The first hearing was scheduled for Feb. 19.

The plaintiffs filed another motion yesterday at the Crawford County Courthouse in addition to the legal action already filed in the case.

Plaintiffs in the case are Steven Kemle, Carole Kemle, Martha Palmer and David E. Smith with legal counsel Barga from Tiffin.

The defendants in the case are the members of the Galion board of education with legal counsel of Steven A. Friedman of Squire, Sanders & Dempsey and David Kane Smith of Britton, Smith, Peters & Kalail are also working as legal counsel for the board. Both firms are out of Cleveland.

The February hearing was continued until March 5. On Thursday, two additional motions were filed. One by the defendants and one by the plaintiffs.

Barga shows the reasoning behind the plaintiffs' newest motion. In Ohio Revised Code section 3313.35 "... in **city school districts**, the **city director** of law shall be the legal adviser and attorney for **the board** thereof, and shall perform the same services for such board as required of the prosecuting attorney for other board of the county. ... **No compensation** in addition to such officer's regular salary shall be allowed for such services." (emphasis added)

"3313.35 makes it very clear," said Barga, "that in a city school district, the city attorney at law is the legal advisor for the school board and provides his services at no extra charge."

Barga also refers the Galion city's charter (Nov. 2000), Article V, section 5.03 which lays out the department of law of the city: The department head of law shall be the chief legal officer, of the city. The department head shall be appointed by the city manager ... and shall perform ... the functions generally assigned to city solicitors by general law and such other duties consistent with his office as may be assigned to him by ordinance or by the city manager."

Barga concludes that "the school board had no authority" to hire legal counsel outside of the city of Galion.

"We want the fees recovered, said Barga. Either the law firms should return their fees to the school district's coffers or the individual board members should reimburse the district for the legal fees. "We want the court to stop this unauthorized expenditure of tax payer dollars."

Money for board legal counsel is coming out of the local share of the new building fund (fund 004) according to Linda Kidwell, treasurer for the Galion district.

"Depending on the situation, the liability insurance company can provide legal counsel — an attorney they hire," said Kidwell. "They do not provide reimbursement for legal counsel hired directly by the district. In terms of the construction fund, the legalities involved in carrying out a facility project of this magnitude are many and those issues often have many legal twists and turns.

"Therefore, it is prudent for the district to use attorneys specialized in those matters. In terms of funds, we can use locally funded construction funds for any legal issues- related to the construction project. Locally funded means 100 percent of the monies are generated from local taxpayers. In this case, the construction bond issue."

The rescheduled hearing is Wednesday, March 5 at 10 a.m., in front of Crawford County Common Pleas-Court Judge Russ Wiseman, second floor of the Crawford County Courthouse. This is a public hearing