

STATE OF NEW HAMPSHIRE  
SUPERIOR COURT

GRAFTON, SS.

Docket No. 215-2022-CV-167

Steven Rand, et al.

v.

The State of New Hampshire

RECUSAL ORDER

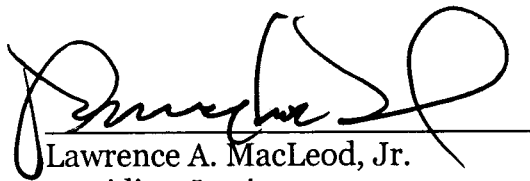
This case was before the court (*MacLeod, J.*) on November 4, 2022, for a hearing on the plaintiffs' motion for preliminary injunctive relief. Subsequent to said hearing, the court reviewed the pending Partially Assented to Motion to Intervene and for Leave to File Brief (Index #36), filed on November 4 by The Coalition Communities (the "Coalition"), which was not scheduled for hearing. In doing so, the court learned that the City of Lebanon is a member of the Coalition. The Coalition objects to the plaintiffs' action and as noted in its motion, the Coalition's "members joined together prior to 2006 to oppose the 'donor' and 'receiver' town system, legislatively and through other means." *Id.* The undersigned justice and his wife have a legal and/or beneficial interest in one residence, two rental properties, and two undeveloped lots in Lebanon with a combined property tax assessment in excess of \$1,000,000.00. Although not specifically mentioned in the plaintiffs' pleadings, Lebanon apparently is a so-called "property-wealthy" municipality.

Assuming, without deciding, that the plaintiffs' lawsuit has merit, it appears that the undersigned justice and his spouse may enjoy a tax advantage under New Hampshire's existing education taxation structure given the assessed values and fortuitous location of their real properties not available to the plaintiffs and other real property owners similarly situated, such that the undersigned and his spouse would or could be placed at more than a de minimis economic disadvantage should the plaintiffs prevail in this case. Even if no actual conflict exists, at a minimum, the undersigned's impartiality in this case can be reasonably questioned under these circumstances should he continue to preside in this matter going forward, to include

ruling on the plaintiffs' pending request for preliminary injunctive relief. As such, the undersigned justice hereby recuses or disqualifies himself from any further involvement with this case, effective forthwith. In the interest of justice, this case shall be assigned henceforth to a different superior court judge for all further hearings, including further argument if necessary on the pending motion for injunctive relief.

Lastly, the court apologizes to the parties for any delay in resolving this case caused by this decision but the circumstances described above were not sufficiently apparent to the court prior to the November 4, 2022, hearing such as to permit the court to have acted sooner.

SO ORDERED, this 9<sup>th</sup> day of November 2022.



Lawrence A. MacLeod, Jr.  
Presiding Justice

Clerk's Notice of Decision  
Document Sent to Parties  
on 11/09/2022