

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL DIVISION

ARTHUR ALAN WOLK, PHILIP BROWNDEIS, : NO. 2016-01839
and CATHERINE MARCHAND :
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: :
: :
: :

vs.

LOWER MERION SCHOOL DISTRICT

ORDER

AND NOW, this 20th day of October, 2022, upon consideration of the Joint Application for Settlement Approval (Seq. #233), Consent Motion to Certify Settlement for Defined Taxpayers and For Approval of Structural Prospective Relief (Seq. #241), and evidentiary hearings held on August 3, 2022 and October 18, 2022, and after consideration of the factors set forth in *Dauphin Deposit Bank & Tr. Co. v. Hess*, 727 A.2d 1076 (Pa. 1999),¹

IT IS ORDERED and DECREED that the Joint Application for Settlement Approval (Seq. #233) and Consent Motion for Certification (Seq. #241) are GRANTED.

In evaluating the proposed settlement and acknowledging that “settlements are favored in class action lawsuits,”² the Court has considered the following in determining that the settlement falls within a “range of reasonableness”;

1. Plaintiffs’ risks of establishing liability and damages in light of the statutory scheme and Defendant’s pleaded defenses of the Tort Claims Act, standing, failure to exhaust, and statute of limitations;
2. The range of reasonableness of the settlement in light of the best possible recovery;
3. The range of reasonableness of the settlement in light of all the attendant risks of litigation including that the instant matter has been in active litigation since 2016, Defendant is a local governmental unit that is required to expend monies and other

¹ In *Dauphin*, the Court determined the following to be appropriate factors to consider in approving or disapproving a class action settlement:

1. the risks of establishing liability and damages;
2. the range of reasonableness of the settlement in light of the best possible recovery;
3. the range of reasonableness of the settlement in light of all the attendant risks of litigation;
4. the complexity, expense and likely duration of the litigation;
5. the state of the proceedings and the amount of discovery completed;
6. the recommendations of competent counsel; and;
7. the reaction of the class to the settlement.

Id. at 1079-1080.

² *Id.* at 1080.

- public resources in pursuit of the litigation, and the settlement would promote public welfare by ensuring that Defendant's budgeting practice is careful and candid;
4. The complexity, expense and likely duration of the litigation;
 5. The state of the proceedings and the amount of discovery completed, including the number of pleadings, memoranda of law, and oral arguments already heard and reviewed and the fact that discovery is ongoing;
 6. The recommendations of competent counsel representing the parties, as well as George Krueger, Esquire, a mediator appointed by the Court; and,
 7. The reaction of the class to the settlement.

IT IS FURTHER ORDERED and **DECREED** that the Settlement Class defined as: "All property owners in the Lower Merion School District who paid school real property taxes in Tax Years 2016, 2017, 2018, 2019, 2020, and/or 2021" is **CERTIFIED**.

IT IS FURTHER ORDERED and **DECREED** that Arthur Alan Wolk, Esquire was, is and continues to be qualified to represent the settlement class pursuant to Pa.R.C.P. §1709;

IT IS FURTHER ORDERED and **DECREED** that Arthur Alan Wolk, Philip Browndeis, and Catherine Marchand are approved as class representatives;

IT IS FURTHER ORDERED and **DECREED** that that the settlement is approved of as fair, adequate, and reasonable.

IT IS FURTHER ORDERED and **DECREED** that the Settlement Agreement and its terms contained within the Consent Motion for Certification is approved and adopted as an Order of Court. Specifically, it is **ORDERED** and **DECREED** that the mechanisms for budgeting accuracy set forth in the Settlement Agreement, including the sharing of certain surpluses, shall be implemented by Defendant Lower Merion School District;

IT IS FURTHER ORDERED and **DECREED** that the mechanisms for communications with the taxpayers set forth in the parties' Settlement Agreement shall be implemented by Defendant Lower Merion School District and that counsel for both parties shall reach consensus as to the language of communications regarding the implementation of each aspect of the Settlement Agreement;

IT IS FURTHER ORDERED and **DECREED**, that Plaintiffs' counsel's expense documentation provided to Defendant on June 10, 2022 and later provided to this Court are reasonable and Defendant shall reimburse Plaintiffs' counsel for \$100,000.00 for reasonable expenses within ten (10) days of the docketing of this Order;

IT IS FURTHER ORDERED and DECREED, that Defendant shall pay all administrative costs associated with the finalization of this Settlement.

The Court shall retain jurisdiction over the matter.

BY THE COURT:



RICHARD P. HAAZ, J.

Order e-filed on 10/20/22
Copies sent via Prothonotary to
the parties of record.
Interoffice mail to:
Court Administration, Civil Division
Sharon R0330
Judicial Secretary