

No. _____

STEVE SWANSON,

Plaintiff

v.

AUSTIN INDEPENDENT SCHOOL
DISTRICT

Defendant.

§ IN THE DISTRICT COURT
§
§
§ OF TRAVIS COUNTY
§
§
§
§ _____ JUDICIAL DISTRICT

**PLAINTIFF’S ORIGINAL PETITION AND
REQUEST FOR WRIT OF MANDAMUS**

Plaintiff Steve Swanson brings this complaint against the Austin Independent School District (AISD), to remedy violations of the Texas Public Information Act, Texas Government Code Chapter 552, and will show:

STATEMENT OF CLAIM

1. AISD is unlawfully withholding public information regarding Eastside Memorial High School at the Johnston Campus (EMHS); the potential closure or repurposing of that campus; and of the districts’ neglect and abandonment of its duty to help the campus succeed; in violation of the Public Information Act. Mr. Swanson seeks a writ of mandamus, declaratory injunctive relief, plus attorneys’ fees and costs.

DISCOVERY

2. Discovery will be conducted under Level 2 of the Texas Rules of Civil Procedure.

JURISDICTION AND VENUE

3. This action is brought pursuant to Chapter 552 of the Texas Government Code.

4. Jurisdiction and venue are proper in this court as AISD is a government body located in Travis County.

PARTIES

5. Steve Swanson is a licensed structural engineer (PE Inactive) and former co-owner of a construction management business. For over 5 years he has volunteered in the education world. He has been a member of the Campus Advisory Council of Eastside Memorial High School at the Johnston Campus. He cares deeply for its students, and all the other students in Austin.

6. The Austin Independent School District is located in Travis County. It may be served with process through Vincent M. Torres, President of the AISD Board of Trustees, at 1111 West 6th Street A250 Austin, TX 78703. *Service is requested.*

STATEMENT OF FACTS

7. Traditionally in America, schools were an important centerpiece of communities, drawing together children, families and civil society, in a common vision of togetherness and the future.

8. The Texas Education Code envisions independent school districts in which each school campus' local community plays an important role in running that campus. The community is supposed help assess academic achievement, set objectives, create a timeline and measure progress toward meeting those objectives. It is supposed to be highly democratic. Tex. Ed. Code 11.251 *et seq.* Texan lawmakers understood community involvement was essential for students' success.

9. In Austin, AISD ignores local communities and dictates campus policy decisions from its central administration. It has taken those communities' seats away from the table, contrary to the Texas Education Code. See <http://www.aisdcomplaint.org>

A. IDEA Charter Schools were sprung on East Austin

10. The controversy over IDEA was illustrative. In spring 2011, AISD's central

administration crafted a plan to give the Allen Middle School and EMSH campuses to an outside entity, IDEA Charter Schools, to be assimilated into an in-district charter school. The plan was essentially *fait accompli* the day it was publicly announced the following October. The campus' communities were only privileged to a handful of one-way presentations before the contract with IDEA was ramrodded through the Board of Trustees.

11. The cold December evening IDEA's contract was approved, a crowd of community members stood in the rain outside the Board of Trustees' chambers, chanting their opposition, but the Trustees were deaf to their pleas. Their communities had traditionally been ignored.

12. But the following October, the community rose again and this time made its voice heard. Four of the nine Trustees were swept from office. The new Board thereafter reexamined the contract with IDEA, and voted to cancel it, in accordance with the contract's probationary provisions. East Austin won a rare victory.

13. This tectonic shift in the District's fortunes surely made an impact upon the central administration. They surely felt singed by the blowback they created by forcing their will upon the East Austin community. Their heads were surely spinning from the blow dealt to their plans by communities that the central administration had assumed it could govern by decree.

14. Surely the central administration learned a lesson, and put it to paper in order to avoid the same mistakes in the future.

15. But what was that lesson? Was it a lesson on the importance of popular assent? Or did their experience further ingrain the feeling they needed to "manage" East Austin, and use greater duplicity the next time around? It is a mystery. That was why Mr. Swanson requested all documents reflecting AISD's internal reports on how it could best ensure it made decisions that would serve the community. But the central administration did not produce them.

B. A New “Outside Entity” is sought to replace IDEA.

16. In January 2013, shortly after the Board withdrew AISD from the contract with IDEA, Superintendent Carstarphen frenzily announced TEA would close EMHS unless the Board found a new outside entity by the end of the school year to take over the school.

17. In the following weeks, suspicion grew that TEA had never given an ultimatum to Carstarphen. Rather, she appeared to be retaliating against the EMHS community for East Austin’s interference with the central administration’s agenda, using the TEA as a boogeyman to push her plans forward. Throwing EMHS back into tumult appeared to be her retaliation for the October election.

18. The urgency of the May/June deadline squelched debate and fast-tracked the drafting of the District’s Request for Proposals (RFP). And although EMHS’s Campus Advisory Committee explicitly told central administration it would only accept mentorship and assistance, the RFP the central administration wrote explicitly sought an entity to take over the campus.

19. Mr. Swanson resolved there was no reason to reconstruct the school as charter when the central office had never even tried community-based planning under the Texas Education Code. AISD’s central administration has never genuinely tried to work with the EMHS community to help the school succeed. It has pointed its finger and blamed parents and teachers and students, and it has used the campus as a guinea pig for pet projects, but it has never authentically engaged with the community on a peer basis to explore ways it could help.

20. Mr. Swanson requested all documentation of AISD’s work to help EMHS succeed during Carstarphen’s tenure, from 2009 to today. AISD failed to produce the documentation.

CAUSE OF ACTION: TEXAS PUBLIC INFORMATION ACT

21. The Public Information Act provides “[u]nder the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that

government is the servant and not the master of the people, it is the policy of this state that each person is entitled ... at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.” Tex. Gov’t Code § 552.001(a). Requests for information are to be “liberally construed in favor of granting a request for information.” *Id.* § 552.001(b).

22. Texas Government Code § 552.321 states “a requestor [of public information] ... may file suit for a writ of mandamus compelling a governmental body to make information available for public inspection if the governmental body ... refuses to supply public information.”

DECLARATORY JUDGMENT

23. Mr. Swanson is entitled to a declaratory judgment concerning the AISD’s violation of the Public Information Act. Tex. Civ. Prac. & Rem. Code 37.

ATTORNEYS’ FEES AND COSTS

24. Mr. Swanson is entitled to attorneys’ fees and costs under Texas Government Code § 552.323(a), and the Texas Declaratory Judgment Act.

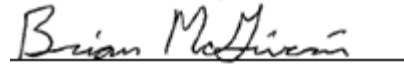
PRAYER FOR RELIEF

Therefore, Plaintiff respectfully prays the Court:

- A. Enter a writ of mandamus requiring the AISD to make public all information responsive to the request;
- B. Grant declaratory relief stating the AISD violated Mr. Swanson’s rights under the Public Information Act;
- C. Grant reasonable attorneys’ fees, litigation expenses and court costs; and,
- D. Grant all other relief as appears reasonable and just, to which Plaintiff may be entitled.

Dated: March 27, 2013

Respectfully submitted,



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