

**IN THE CIRCUIT COURT OF ILLINOIS  
FOR THE EIGHTEENTH JUDICIAL CIRCUIT  
DUPAGE COUNTY, ILLINOIS**

ANDREW SCHMIDT, KIRSTEN SCHMIDT, )  
 KAREN WEBER, BRADFORD TOCHER and )  
 EDWARD CORCORAN, )  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 COMMUNITY CONSOLIDATED SCHOOL )  
 DISTRICT NUMBER 181, DUPAGE AND )  
 COOK COUNTY, ILLINOIS, an Illinois )  
 quasi-municipal corporation and body politic, )  
 )  
 Defendant. )

Case No.: 2016 MR 001670

Hon. Bonnie M. Wheaton

**SETTLEMENT AGREEMENT AND RELEASE**

This Settlement Agreement and Release (“Agreement”) is made and entered into between Andrew Schmidt, Kirsten Schmidt, Karen Weber, Bradford Tocher and Edward Corcoran (collectively, “Plaintiffs”) and Community Consolidated School District Number 181 (“Defendant” or “District”), each individually a “Party” and collectively the “Parties,” and deemed effective as of the date of the last signature below.

**RECITATIONS**

**WHEREAS**, the Parties desire an outcome to the above-captioned litigation (“Lawsuit”) that benefits the community;

**WHEREAS**, Plaintiffs believe all laws and rules were not followed and respected regarding the November 8, 2016 Hinsdale Middle School bond referendum vote (“Bond Referendum”), which is the subject of this Lawsuit. The District recognizes Plaintiffs’ concerns and wishes to advance the results of the Bond Referendum.

**NOW THEREFORE**, in consideration of the mutual covenants, promises and agreements contained in this Agreement, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**AGREEMENT**

**1. Incorporation of Recitations** – The Recitations set forth above are incorporated herein by reference and are expressly made a part of this Agreement.

**2. Bond Referendum Review and Accountability Committee** – No later than 14 days after the effective date of this Agreement, the District shall establish a Bond Referendum Review and Accountability Committee (“Committee”) as follows:

- a. Composition – The Committee shall be comprised of three members, two of whom shall have been members of the Board of Education at the time the Bond Referendum was held, and one of whom shall be one of the individuals who was elected to the Board of Education during the April 4, 2017 election.
- b. Objective – The Committee’s goals shall be objectively to: (1) investigate any error(s) and/or omission(s) that may have occurred regarding the Bond Referendum; (2) to examine and make any recommendations regarding the District’s past communications, actions, analysis and transparency with the community regarding the financial aspects of the Bond Referendum and construction of Hinsdale Middle School, including, but not limited to, the structure and costs of the bonds, the parking deck and any construction scope changes; and (3) to make any recommendations to the District, if appropriate, to minimize the risk and cost of any future recurrence of the error(s) and/or omission(s) that may have occurred with the Bond Referendum.
- c. Request for Public Written Comment and Questions – Once duly constituted, the Committee shall, pursuant to the timeframe set forth below, publish on its website a request for any public written comments or questions regarding the Bond Referendum. The Committee shall provide both an email address and physical mailing address for any comments and questions.
- d. Initial Public Meeting – After the time for public written comments and questions has closed, pursuant to the timeframe set forth below, the Committee shall have a public meeting to receive community input in addition to the prior written comments and questions previously received.
- e. Investigation – After the initial public meeting, pursuant to the timeframe set forth below, the Committee shall conduct an investigation, along with any help from District staff or outside advisors as necessary and as nominated and selected by the Committee.
- f. Report – After the Committee has completed its investigation, pursuant to the timeframe below, the Committee shall produce a written report of its investigation, which shall include any conclusions regarding accountability as to the Bond Referendum. If the report is not unanimous, any dissenting or concurring member may include a separate report or addendum if preferred.
- g. Publication of Report – The Committee’s report(s) and any addendum shall be published on the District’s website for at least two years from the date of its issuance, and an executive summary of which shall be mailed to all taxpayers in the District within 45

days of its issuance or within such other time period as reasonably practicable.

- h. **Final Public Meeting** – After the Committee has issued its report(s) and any addendum, pursuant to the timeframe set forth below, the Committee shall have a public meeting where it will present its findings, and if appropriate, any recommendations. This public meeting shall also include a public comment and question period.
- i. **Termination** – The Committee shall terminate 7 days after the Final Public Meeting is held.
- j. **Timeframe** – The following timeframe shall govern the Committee’s operations to the extent practicable and unless otherwise governed by law or regulation or to the extent that the Committee determines in good faith that an extension is reasonably necessary:
  - i. June 30, 2017 – Deadline to publish on the District’s website a request for public comments and questions regarding the Bond Referendum.
  - ii. July 14, 2017 – Deadline to submit public comments or questions.
  - iii. July 28, 2017 – Deadline to hold initial public meeting.
  - iv. September 29, 2017 – Deadline for the Committee to complete its investigation and complete report(s).
  - v. October 20, 2017 – Deadline to hold Final Public Meeting.

**3. Agreement Not to Appeal Dismissal With Prejudice** – Pursuant to this Agreement, Plaintiffs hereby agree not to appeal or seek further reconsideration of the Court’s dismissal of the Lawsuit with prejudice or the Court’s denial of Plaintiffs’ motion for reconsideration. It is the express intention and desire of the Parties to end this Lawsuit completely, including any appeals, and all challenges to the Bond Referendum through entering into this Agreement and the mutually-agreed consideration provided herein. The Parties agree that this Agreement may be used as the basis for a motion to dismiss any appeal or action inconsistent with the terms of this Agreement.

**4. No Admission of Liability** – Nothing in this Agreement is to be construed as, or deemed to be, an admission by any of the Parties with respect to the claims asserted or which could have been asserted in the Lawsuit. The Parties agree that they have entered into this Agreement in compromise of disputed claims to avoid further expense and protracted litigation, and that such compromise is not an admission of any liability or wrongdoing by any Party. No Party shall use this Agreement in any action taken pursuant hereto as an admission or waiver by any other Party of any position, claim, or defense in any other dispute.

5. **Releases** – Except for the rights and obligations created by this Agreement, the Parties for themselves, their heirs, executors, administrators, agents, attorneys, successors and assigns, hereby release and forever discharge the other Party (collectively the “Released Parties”), from any and all claims, demands, damages, disputes, liabilities, actions, rights or causes of action or suits of any kind or nature whatsoever, including any claim for attorneys’ fees or expenses, based on any legal or equitable theory, right of action or otherwise, foreseen or unforeseen, known or unknown, matured or unmatured, accrued or unaccrued, which they have, or ever had, or may hereafter have, arising out of, based upon or in any manner connected with the Bond Referendum and the allegations made in the Lawsuit (“Released Claims”). For the avoidance of all doubt, Plaintiffs’ Released Claims—although not the District’s Released Claims—include any claim against the DuPage County Election Commission, or any of its agents, regarding the subject matter of this Lawsuit or the Bond Referendum. Nothing herein, however, releases any Party from a claim to enforce this Agreement as set forth in the “Enforcement” paragraph below.

6. **Future Legal Action is a Material Breach** – It is a material term and condition of this Agreement, and the Parties agree, that all of the Released Claims are released and that the Parties are barred from suing any of the Released Parties on any such Released Claim. But for Parties’ release of the Released Claims and agreement not to sue on any of the Released Claims, the Parties would not have entered into this Agreement. If the Parties initiate any legal proceeding including, but not limited to, a lawsuit, an arbitration or any other legal action, against any of the Released Parties on any Released Claim that arises or is based on alleged conduct occurring prior to the date of the execution of this Agreement, other than a proceeding to enforce or interpret this Agreement, it shall constitute a material breach of this Agreement, provided that only such individual(s) Plaintiffs who breached shall be responsible for a cure and damages or other remedy related to a breach. As noted above, and for the avoidance of all doubt, any action by the District against the DuPage County Election Commission, or any of its agents, or any other responsible non-party to this Lawsuit for any errors or omissions that may have occurred regarding the notice for the Bond Referendum, shall not be a material breach.

7. **Joint Press Release** – Within one day after the effective date of this Agreement, the Parties shall publish the joint statement below by the District placing it on its website for at least two years and including it in the its next regularly-scheduled District-wide mailer:

“Community Consolidated School District Number 181 and plaintiffs Andrew Schmidt, Kirsten Schmidt, Karen Weber, Bradford Tocher and Edward Corcoran are pleased to announce that they have settled their litigation regarding the November 8, 2016 bond referendum, thereby allowing for the construction of a new Hinsdale Middle School to begin.

To the extent that any actors outside the control of District 181 and Plaintiffs expressed their views or feelings in an improper manner, the District and the Plaintiffs assure the whole community that such behavior is not condoned and is inconsistent with the core beliefs of the District and the Plaintiffs.

We respect the individual rights of our fellow citizens and are pleased to

have settled this matter with the best interests of the community in mind.

A copy of the settlement agreement can be found on the District's website.”

**8. No Assignment** – Plaintiffs represent and warrant that there has been no assignment, sale or transfer, by operation of law or otherwise, of any claim, right or interest released in this Agreement.

**9. Authority to Execute** – The Parties represent and warrant that they have the full right, power, and authority to enter into and execute this Agreement.

**10. Binding Agreement** – This Agreement is binding upon and inures to the benefit of each of the Parties hereto, and their respective heirs, next of kin, executors, administrators, successors, assigns, officers, directors, employees, affiliates, agents, and related entities.

**11. Access to Counsel and Drafted by Counsel for Each Party** – Each Party represents that it has been advised to seek consultation with an attorney before signing this Agreement, that such Party had the benefit of counsel of its own choosing, and that such Party has carefully read this Agreement, has reviewed it with counsel and understands each provision hereof. The Parties each acknowledge that this Agreement shall be deemed to have been drafted by counsel for all Parties, and that the Agreement shall not be construed in favor of or against any Party on the grounds that such Party or such Party's attorney was the drafter.

**12. Voluntary Agreement** – The Parties agree that this Agreement constitutes a good faith settlement of the claims and allegations asserted in the Lawsuit and acknowledge that it is entered into freely and voluntarily.

**13. Integration** – Each of the Parties to this Agreement acknowledges that this Agreement constitutes the entire agreement between the Parties, and that no promise, inducement or agreement not stated herein has been made to them in connection with this Agreement.

**14. Counterparts** – This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which shall constitute one and the same instrument binding on each of the Parties hereto, notwithstanding that all Parties may not be signatories to the same counterpart.

**15. Severability** – If any provision of this Agreement shall be held invalid by operation of law or by any court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect, and may be independently enforced to the fullest extent permitted by law.

**16. Enforcement** – The obligations of this Agreement shall be enforceable only in an independent action and shall be interpreted pursuant to the law of the State of Illinois, without regard to its conflict of law rules. Such an action instituted by any of the Parties hereto shall be filed in the Eighteenth Judicial Circuit Court, DuPage County, and may be filed in Chancery as a specific performance action. The Parties agree that each of the Parties to this action has contractual standing to bring such an action. The prevailing party in an enforcement

action brought pursuant to this paragraph shall be entitled to an award of costs and attorneys' fees.

**17. Notice and Cure** – Prior to any action to enforce this Agreement, each Party shall give the other Party written notice of the alleged breach and 45 days, or such other time period as agreed to by the Parties, to remedy the alleged breach. Failure to honor this provision shall be grounds for dismissal of any such action to enforce this Agreement.

**18. Captions** – The titles or captions of the paragraphs or sections contained in this Agreement are inserted only as a matter of convenience and for reference, and in now way define, extend or describe the scope of this Agreement or the intent or meaning of any provision hereof.

**19. Addresses for Communications and Notices** – All communications and notices to be provided pursuant to or in connection with this Agreement shall be in writing and shall be sent by email with a copy by first-class U.S. Mail, unless otherwise agreed to by the Parties in writing, at the addresses set forth below:

**If to the District:**

Thomas V. Panoff  
MAYER BROWN LLP  
71 South Wacker Drive  
Chicago, IL 60606  
(312) 701-8821  
tpanoff@mayerbrown.com

John M. Izzo  
HAUSER IZZO, LLC  
19730 Governors Highway – Suite 10  
Flossmoor, IL 60422  
(708) 799-6766  
jizzo@hauserizzo.com

**If to Plaintiffs:**

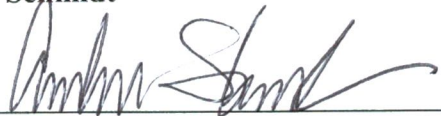
Bruce Davidson  
733 North Oak St.  
Hinsdale, IL 60521  
(630) 947-3117  
akivida@aol.com

Clinton A. Krislov  
Center for Open Government Law Clinic  
Law Office of IIT Chicago-Kent  
College of Law  
565 West Adams St., Suite 600  
Chicago, IL 60661  
(312) 606-0500  
ckrislov@kentlaw.itt.edu

IN WITNESS THEREOF, the Parties have caused this Agreement to be duly executed and effective as of the date of the last signature below.

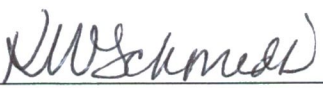
**AGREED:**

**Andrew Schmidt**

By:   
Andrew Schmidt

Date: May 31, 2017

**Kirsten Schmidt**

By:   
Kirsten Schmidt


Date: 5/31/17, 2017

**Karen Weber**

By:   
Karen Weber


Date: 5/31/17, 2017

**Bradford Tocher**

By:   
Bradford Tocher

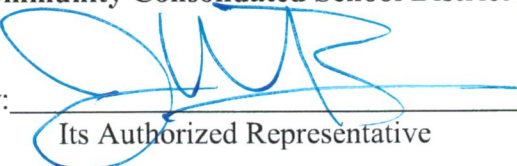
Date: 5/31, 2017

**Edward Corcoran**

By:   
Edward Corcoran

Date: 5/31, 2017

**Community Consolidated School District No. 181**

By:   
Its Authorized Representative

Date: 5/31, 2017

**AGREED AS TO FORM:**

**Plaintiffs**

By:  Esq.

Bruce Davidson  
733 North Oak St.  
Hinsdale, IL 60521  
(630) 947-3117  
akivida@aol.com

Date: May 31, 2017

Clinton A. Krislov  
Center for Open Government Law Clinic  
Law Office of IIT Chicago-Kent  
College of Law  
565 West Adams St., Suite 600  
Chicago, IL 60661  
(312) 606-0500  
ckrislov@kentlaw.itt.edu

**Community Consolidated School District No. 181**

By:  Esq.

Thomas V. Panoff  
MAYER BROWN LLP  
71 South Wacker Drive  
Chicago, IL 60606  
(312) 701-8821  
tpanoff@mayerbrown.com

Date: May 31, 2017

John M. Izzo  
HAUSER IZZO, LLC  
19730 Governors Highway – Suite 10  
Flossmoor, IL 60422  
(708) 799-6766  
jizzo@hauserizzo.com