



Commission scolaire English-Montréal
English Montreal School Board

Media statement

Monday, July 8, 2019

Following a recommendation from Education Minister Jean-Francois Roberge, on June 26, 2019 the CAQ government passed a decree to transfer two EMSB schools to the Commission Scolaire de la Pointe-de-l'Île (CSPI). Last week the English Montreal School Board (EMSB) applied for a Provisional 10-day Stay / Injunction in Superior Court. Today, the EMSB learned that its application was DENIED by Superior Court Judge Dominique Poulin

We are disappointed with the Quebec Superior Court's decision not to grant a provisional stay of the Orders-in-Council (decree) that imposes the transfer of General Vanier Elementary School and John Paul I Junior High School to the CSPI. A stay would have brought some relief to our students and their families as well as our staff.

A provisional Stay / Injunction requires that four criteria be met:

- 1) there must be a matter of urgency;
- 2) there must be a serious legal question to be considered (the issue must neither be frivolous nor vexatious);
- 3) there must be a serious prejudice or irreparable loss;
- 4) the balance of inconvenience between both sides (EMSB and CSPI)

For the first criteria, the judge determined that there was no urgency as the boards had agreed to a proper transition period. For the second criteria, the judge found in favor of the EMSB – who raised a serious legal issue based on section 23 of the Canadian Charter and whether the rights of the minority English community were violated. For the third criteria, the judge agreed that there would be serious and irreparable harm in the EMSB losing two of its schools. For the fourth criteria, the judge determined in favor of the CSPI.

To obtain a provisional stay / injunction, all four criteria must be met. So while the Court found that the EMSB raised a serious question based on s. 23 of the *Canadian Charter*, and was satisfied that the EMSB would suffer serious harm if the stay was not granted, it ultimately found that the balance of inconvenience weighed in favour the CSPI.

On that point, the court held that no alternative agreement was in place between the EMSB and the CSPI, which would guarantee the placement of CSPI students. It also noted that there is a very high threshold for obtaining a stay of a government decree adopted in the public interest.

EMSB Chairman Angela Mancini stated that: “while this is disappointing news, the English community should note that the Stay / Injunction was denied based on the high threshold required for such action against a government decree. But this denial of the stay / injunction is in no way an indication of the validity and substance of our case as a minority English language community. We have constitutional rights. And as such, we are considering all legal options available to us.”

It is important to reiterate that, in deciding to close the schools, the government failed to properly consult the English-speaking community in a meaningful way and to consider the various proposals we put forward which address the CSPI’s needs for this fall. Proper deference was not given to the English community. The judge references the EMSB’s argument that once Minister Roberge proposed the transfer of three EMSB schools to the CSPI, the CSPI had no more incentive to try to negotiate with the EMSB.

Mancini added: “Most importantly, we have a constitutional right to manage and control our education system including our facilities, which the Government is ignoring. The time has come to adopt an approach that respects our constitutional rights while working to meet the needs of all students in the East End regardless of their linguistic background.”

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