



TOWN of BROOKLINE

Massachusetts

BOARD OF SELECTMEN

JEFFREY P. ALLEN, Chairman
ZVI A. SESLING
CHRISTOPHER J. CROWLEY
LUSTER T. DELANY
CHARLES C. AMES

RICHARD T. LEARY
Town Administrator

RECEIVED
OCT 27 1989
Ans'd.....

October 24, 1989

Dear Local Official:

The Town of Brookline and one hundred twenty-one (121) other municipalities have commenced a lawsuit against the Governor because of his withholding of \$210 million in Chapter 70 School Aid appropriated for Massachusetts cities and towns. The litigation challenges the Governor's right to withhold the funds (which were appropriated by an override of his veto of \$100 million in Local Aid funding) and his right to change the allocation figures for Chapter 70 School Aid established by the Legislature and specifically set forth in the Fiscal Year 1990 General Appropriations Act (Chapter 240 of the Acts of 1990). It is important to note that the Governor cut Chapter 70 School Aid at a time when state tax revenues for FY90 were increasing by over 5% (\$450 million).

In addition, the suit also sets forth that even if he had the right to withhold the funds, he clearly had no right to unilaterally reallocate the funds among cities and towns. The Legislature's appropriation vote included specific appropriations for each city and town. These specific allocations were based upon a combination of the Chapter 70 formula and a so-called "needs-based formula" which has been used for a number of years. The formula was developed after much involvement and discussion between cities and towns, represented by its association, the Mass. Municipal Association, the Administration and the Legislature. The use of the combined needs-based formula and Chapter 70 formula is fair to all cities and towns. It should not have been significantly changed without legislative review and approval and input from Massachusetts municipalities.

The last point in the lawsuit involves the distribution of lottery funds. The General Appropriation Act attempts to ignore the statutory mandate that lottery fund net revenues shall be included in the Local Aid Fund and distributed to the cities and towns.

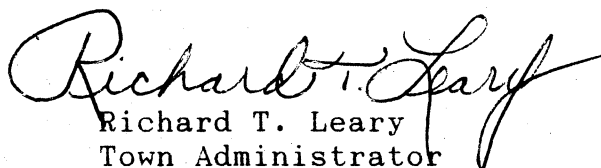
The case, filed in Suffolk Superior Court, has been reserved and reported by the Superior Court Judge, upon an Agreed Statement of Facts, to the Appeals Court. The parties will request that the Supreme Judicial Court hear the case.

The Governor's per capita reduction formula is completely arbitrary and hurts a great many small and poor communities. In some cases communities lose their entire allocation of state aid. Regardless of whether a community is helped or hurt by the Governor's reallocation (over 80% are hurt), no Governor should be allowed to unilaterally change the distribution formula without any input from cities and towns or the Legislature. To let go unchallenged or to concede the Governor's right to unilaterally change a distribution in whatever manner he sees fit would be setting a dangerous precedent and ignoring the constitutional provision that mandates the separation of powers between the Executive, Legislative and Judicial branches of government. It should be noted that if we are successful in arguing the first point, which is the withholding of the \$210 million in local aid, the issue concerning the Governor's change in the formula becomes moot.

If your community has not already joined this crucial fight, we urge you to consider taking such action. If you disagree or have concerns with any of the three major arguments put forth in the lawsuit, please consider joining on a limited basis. Several communities, including the Town of Weymouth, who are favored by the per-capita distribution, as well as the Massachusetts Municipal Association, will argue in favor of the first issue which contests the Governor's right to cut or withhold Chapter 70 School Aid funds appropriated by the Legislature.

On behalf of the participating communities, I thank you for your consideration and look forward to hearing from you.

Very truly yours,


Richard T. Leary
Town Administrator

CURRENT LISTING OF TOWNS PARTICIPATING IN THE
LOCAL AID CLASS ACTION SUIT

Town of Amherst	Town of Natick
Town of Arlington	Town of Needham
Town of Ashfield	Town of Newbury
Town of Ashland	City of Newton
Town of Avon	Town of Norfolk
Town of Barnstable	Town of North Andover
Town of Barre	Town of Northborough
Town of Becket	Town of Northbridge
Town of Berkley	Town of North Reading
Town of Berlin	Town of Northfield
Town of Blandford	Town of Norwood
Town of Bourne	Town of Pembroke
Town of Brookline	Town of Pepperell
Town of Burlington	Town of Plainfield
Town of Canton	Town of Plainville
Town of Carver	Town of Plymouth
Town of Charlemont	Town of Plympton
Town of Chatham	Town of Raynham
Town of Chelmsford	Town of Reading
Town of Cohasset	Town of Rockport
Town of Colrain	City of Salem
Town of Danvers	Town of Saugus
Town of Dartmouth	Town of Savoy
Town of Dennis	Town of Scituate
Town of Dighton	Town of Seekonk
Town of Duxbury	Town of Sharon
Town of Easthampton	Town of Shelburne
Town of Easton	Town of Sherborn
Town of Edgartown	Town of Shrewsbury
Town of Egremont	Town of Shutesbury
Town of Essex	Town of Somerset
Town of Fairhaven	Town of South Hadley
Town of Florida	Town of Southampton
City of Gloucester	Town of Spencer
Town of Grafton	Town of Sterling
Town of Groton	Town of Sturbridge
Town of Halifax	Town of Sudbury
Town of Hamilton	Town of Sutton
Town of Hancock	Town of Swampscott
Town of Hanson	Town of Templeton
Town of Harvard	Town of Tisbury
Town of Hingham	Town of Topsfield
Town of Hinsdale	Town of Townsend
Town of Holden	Town of Tyngsboro
Town of Holland	City of Waltham
Town of Hopedale	Town of Wareham
Town of Ipswich	Town of Warwick
Town of Lancaster	Town of Washington
Town of Lanesborough	Town of Wayland
Town of Lynnfield	Town of Wellfleet
Town of Mansfield	Town of Wellesley
Town of Marblehead	Town of Wenham
City of Marlboro	Town of West Boylston
Town of Maynard	Town of West Bridgewater
Town of Mendon	Town of West Newbury
Town of Methuen	Town of Weston
Town of Middleton	Town of Westport
Town of Milford	Town of Wilbraham
Town of Millis	Town of Wilmington
Town of Millville	Town of Winchester
Town of Milton	Town of Yarmouth
Town of Montague	
Town of Nantucket	

8.

S-771

Comm. from Richard T. Leary, Town Administrator
Town of Brookline, transmitting notification
of a lawsuit against the Governor for withholding
\$210 million in School Aid for Massachusetts cities
and towns.

In City Council,

November 13, 1989

Placed on file