

State of New Hampshire Supreme Court

APPEAL OF THE
LOCAL GOVERNMENT CENTER, INC, &a.

N.H. Sup.Ct. No. 2012-0729

MOTION FOR STAY OF SEPTEMBER 1, 2013 DEADLINES

NOW COME the Towns of Durham, Northfield, Peterborough, and Salem, by and through their attorney, Joshua L. Gordon, and respectfully request this Court stay the September 1, 2013 deadlines contained in the BSR order.

As Grounds it is stated:

1. The Bureau of Securities Regulation (BSR) order that gave rise to this appeal requires the Local Government Center (LGC) to refund moneys to towns. The order creates a date certain for the refunds, pertaining to two of the risk pools. The order provides:

the Local Government Center's Health Trust risk pool management program ... shall return the \$33,200,000.00 excess amount in cash to members that participate in the Local Government Center's Health Trust risk pool management program on the date of this order, no later than September 1, 2013 in proportion to the premiums paid by said members.

ORDER ¶ 8 (Aug. 16, 2012), *Petition for Appeal* at 123.

Local Government Center's Property and Liability risk pool management program ... shall return the \$3.1 million surplus in cash to current members of the Local Government Center's Property and Liability risk pool management program on the date of this order, no later than September 1, 2013 in proportion to the premiums paid by said members.

Id. ¶ 11.

2. The BSR found wrongdoing in the management of the LGC's risk pools, and ordered money held by the LGC to be returned to current members of the pools. The BSR, however, did not distinguish among municipal members, who joined and left the risk pools at different times. By ordering the money returned to just current members, it created windfalls for some entities, but inadequate return for others. The Towns have sought intervention to prevent this arbitrary injustice.

3. The LGC has indicated it intends to comply with the September 1, 2013 deadlines. If the money is refunded in the manner and on the timetable the BSR has ordered, however, the relief the Towns have requested in this appeal will become moot, and the opportunity to ensure Towns will be reimbursed in the proportion to which they actually contributed to the pools will be lost.

4. A stay of the deadline is the appropriate remedy. *See Londonderry Sch. Dist. v. State*, 154 N.H. 153 (2006). No party will be prejudiced by a stay of the September 1, 2013 deadlines. Rather, a stay is in the public interest for the same reasons the Towns enunciated in their request for intervention.

WHEREFORE, the Towns of Durham, Northfield, Peterborough, and Salem respectfully

request this honorable Court to stay the September 1, 2013 deadlines contained in the BSR order.

Respectfully submitted
for the Towns of Durham, Northfield
Peterborough, and Salem,
by their attorney,



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Dated: April 4, 2013

I hereby certify on this 4th day of April 2013, a copy of the foregoing is being forwarded to William C. Saturley, Esq. & Brian M. Quirk, Esq., Preti Flaherty, PLLP; to David I. Frydman, Esq., Local Government Center, Inc.; to Michael D. Ramsdell, Esq., Ramsdell Law Firm, PLLC; to Jeffrey D. Spill, Esq. & Adrian S. LaRochelle, Esq., New Hampshire Bureau of Securities Regulation; and to Andru H. Volinsky, Esq., Roy W. Tilsley Jr., Esq., & Christopher G. Aslin, Esq., Bernstein Shur Sawyer & Nelson PA.



Joshua L. Gordon, Esq.

Dated: April 4, 2013