

Michael C. LIDDELL, a minor, by Minnie LIDDELL, his mother and next friend; Kendra Liddell, a minor, by Minnie Liddell, her mother and next friend; Minnie Liddell; Roderick D. LeGrand, a minor, by Lois LeGrand, his mother and next friend; Lois LeGrand; Clodis Yarber, a minor, by Samuel Yarber, his father and next friend; Samuel Yarber; Earline Caldwell; Lillie Caldwell; Gwendolyn Daniels; National Association for the Advancement of Colored People; United States of America; City of St. Louis; Plaintiffs;

v.

The BOARD OF EDUCATION OF THE CITY OF ST. LOUIS; Hattie R. Jackson, President, Board of Education of the City of St. Louis; Rev. Earl E. Nance, Jr., a member of the Board of Education of the City of St. Louis; Renni B. Shuter, a member of the Board of Education; of the City of St. Louis; Paula V. Smith, a member of the Board of Education of the City of St. Louis; Dr. Albert D. Bender, Sr., a member of the Board of Education of the City of St. Louis; Eddie G. Davis, a member of the Board of Education of the City of St. Louis; Dr. John P. Mahoney, a member of the Board of Education of the City of St. Louis; Marybeth McBryan, a member of the Board of Education of the City of St. Louis; Thomas M. Nolan, a member of the Board of Education of the City of St. Louis; William Purdy, a member of the Board of Education of the City of St. Louis; Robbyn G. Wahby, a member of the Board of Education of the City of St. Louis; Madye Henson Whithead, a member of the Board of Education of the City of St. Louis; Dr. Cleveland Hammonds, Jr., Superintendent of Schools for the City of St. Louis; Defendants-Appellees;

Ronald Leggett, St. Louis Collector of Revenue; Defendant;

State of Missouri; Mel Carnahan, Governor of the State of Missouri; Jeremiah (Jay) W.

1110 Nixon, Attorney General; Bob Holden, Treasurer; Richard A. Hanson, *1110 Commissioner of Administration; Robert E. Bartman, Commissioner of Education; Missouri State Board of Education, and its members; Thomas R. Davis; Sharon M. Williams; Peter F. Herschend; Jacqueline D. Wellington; Betty E. Preston; Russell V. Thompson; Rice Pete Burns; William Kahn; Defendants-Appellants;

Special School District of St. Louis County; Affton Board of Education; Bayless Board of Education; Brentwood Board of Education; Clayton Board of Education; Ferguson-Florissant Board of Education; Hancock Place Board of Education; Hazelwood Board of Education; Jennings Board of Education; Kirkwood Board of Education; LaDue Board of Education; Lindbergh Board of Education; Maplewood-Richmond Heights Board of Education; Mehlville Board of Education; Normandy Board of Education; Parkway Board of Education; Pattonville Board of Education; Ritenour Board of Education; River-view Gardens Board of Education; Rockwood Board of Education; University City Board of Education; Valley Park Board of Education; Webster Groves Board of Education; Wellston Board of Education; St. Louis County; Buzz Westfall, County Executive; James Baker, Director of Administration, St. Louis County, Missouri; Robert H. Peterson, Collector of St. Louis County "Contract Account," St. Louis County, Missouri; The St. Louis Career Education District; Defendants;

No. 97-3566.

Submitted February 25, 1998.

Decided April 28, 1998.

Michael J. Fields, Jefferson City, MO, argued, for Appellants.

Kenneth C. Broston, St. Louis, MO, argued (Dirk DeYong, Robert E. McWilliams, Jr., and Alan D. Pratzel, on the brief), for Appellees.

Before McMILLIAN, HEANEY, and FAGG, Circuit Judges.

HEANEY, Circuit Judge.

The State of Missouri (State) appeals from the district court's December 16, 1996 and July 8, 1997 orders requiring the State to pay attorney's fees and litigation expenses incurred between 1994 and 1996 as part of its obligation to fund 71.5% of the site acquisition costs for the Science Center Investigative Learning Center (ILC) magnet school. We affirm.

In 1988, the district court approved the construction of the ILC as part of its magnet school order. We approved the overall magnet school budget, but because the site acquisition costs were not included in the budget, we remanded the case for the district court to "conduct a hearing to select a site for the [ILC] and add an amount
1111 sufficient to purchase the selected site to the magnet plan budget." *Liddell v. Board of Educ.*, 907 *1111 F.2d 823, 825 (8th Cir.1990) (Liddell XIX). Under the terms of the magnet school plan, the State is responsible for 71.5% of all site acquisition costs. On April 22, 1994, the Board of Education of the City of St. Louis (City Board) filed its first interim motion for site acquisition costs, and the district court ordered the State to pay \$3,267,850, as its 71.5% share.

In May 1996, the City Board filed its third interim motion for site acquisition costs, seeking, inter alia, additional attorney's fees, legal costs, and expert fees incurred between 1994 and 1996 relating to the acquisition of certain properties and state court condemnation proceedings. In December 1996, the district court confirmed that attorney's fees and litigation costs were includable as site acquisition costs. Following a March 1997 hearing, the district court granted the City Board's request for fees, with two exceptions,^[1] and ordered the parties to determine the exact dollar amount owed by the State to the City Board. The State appeals.

Because the expenses requested related to state condemnation proceedings, which required the use of expert witnesses and the valuation of property, we agree with the district court's determination that such costs were necessary and proper site acquisition costs. Although we are unable to calculate the exact amount at issue based from the record submitted on appeal, the parties have indicated that the State's 71.5% share amounts to between \$184,000 and \$207,000. We trust that the parties will come to an agreement as to the amount due without further court intervention.

Accordingly, we affirm.

[1] The district court denied fees for certain out-of-town trips for counsel and expert witnesses, and fees for two experts whose reports were not properly itemized.

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