

SJC ruling gives municipalities discretion in bidding process

By John Ellement

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The state's high court said yesterday that local governments can hire companies for public works projects even if the firms misrepresented their track records, provided there is no sign of corruption in the bidding process.

The unanimous ruling by the Supreme Judicial Court clears the way for the town of Hanover to finish its \$50 million new high school. Supporters of the decision said it will help taxpayers save millions of dollars in years to come.

The decision gives "discretion to procurement officers at the local level to really go for the lowest reliable and qualified bidder," said Christopher Petrini, a Framingham attorney who represented municipal lawyers before the SJC. "The [Hanover] taxpayers got a project for \$1 million less."

But critics in the construction industry said the ruling undermines the spirit of the open, honest, public bidding process created by the Ward Commission after bid-rigging scandals in the 1970s.

"I think the likely result will be a compromising of the integrity of the competitive process," said Donald J. Siegel, a Boston attorney who represented the Foundation for Fair Contracting before the SJC.

Attorney General Martha Coakley, whose office tried to halt the Hanover project after misrepresentations were discovered in the winning bidder's paperwork, said accuracy is crucial.

"We believe all contractors who bid on public construction

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CHRIS MARTIN

Chairman,

High School Building Committee

projects should accurately and fully describe their qualifications," she said in a statement. "We respect the court's decision and will also continue our efforts to ensure an open and fair bidding process for projects in Massachusetts."

At issue was the decision by Hanover officials to hire Callahan Inc., a Bridgewater-based firm, for the high school project even though it was discovered that the firm had provided fraudulent information to qualify for bidding. The company took credit for a North Andover high school building project, even though another corporation held the lead role, according to the court.

Losing bidders said Callahan should be disqualified from bidding for violating ethical rules. Coakley recommended that Hanover end its contract with Callahan and accept the next qualified bidder. Town officials refused, saying they took Callahan's misdeeds into account.

"We're pretty happy that the outcome shows we followed the process," Chris Martin, chairman of the High School Building Committee, said yesterday.

Writing for the court, Justice Ralph W. Gants said Hanover's

actions were reasonable and not the result of official corruption or fraud. The SJC threw out an injunction issued by a lower court judge.

"We conclude that where, as here, there is no allegation that any member of the town's prequalification committee acted corruptly in deciding to prequalify Callahan, there is unrefuted evidence that the committee did not act in reliance on any of the alleged misrepresentations, and the town wishes to proceed with the contract" the injunction must be dismissed.

Martin said that other than a five-week hiatus last November when the injunction stopped construction, the project has been moving along. The injunction was lifted by an Appeals Court judge in December.

The SJC took up the case after 10 taxpayers from Hanover, most of them members of the carpenters' union, sought to have the injunction reinstated.

Yesterday, Martin said the project was on time and on budget. The school is expected to open in fall 2011.

The state School Building Authority provides monthly reimbursements for 48 percent of project cost. To date, the state has pitched in about \$7 million of the \$15 million spent so far.

Dennis Sheehan, vice president of Callahan Inc., said company officials are relieved.

"We're certainly very pleased," he said, adding "there was no intent to mislead anybody."

Union member Kirt Fordyce, who was one of the town residents who sued Hanover, said he was reviewing the SJC decision.

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DAVID L. RYAN/GLOBE STAFF

Gabriella Mary Sghia-Hughes gardened with morning glory in her hair at an urban farm on West Cottage Street in Boston.

Nonprofit group makes farmers of urban teens

Food Project provides produce to local markets

By Patrick G. Lee

GLOBE CORRESPONDENT

It sits on a plate in an office in Dorchester: a rocklike mass the color of Pepto-Bismol.

The hardened blob is the seven-year-old remains of a strawberry milkshake from a fast food franchise, which has yet to show any signs of decay because of its artificial preservatives. The staff of the Food Project, a local nonprofit that promotes urban gardening, uses the old milkshake as a visual teaching tool to impress upon its summer interns the importance of choosing fresh local foods.

"It still smells like a milkshake," said Brittany Arsenault, 18, an intern from Amesbury. "I've known people who have licked it, and it's tasted like a strawberry milkshake."

Less than two blocks away, halfway between Dudley Square and Uphams Corner, 20 or so of Arsenault's fellow teenage interns work on an urban farm to produce vegetables and fruits for local shelters and farmers' markets. US Health and Human Services Secretary Kathleen Sebelius visited the site yesterday, after she met with city officials about local public health initiatives that had been awarded federal funding in March.

Boston is one of seven communities nationally to get stimulus money for battling both obesity and tobacco use. Of the city's \$12.5 million in grants, the Food Project is getting \$600,000 to renovate a deserted greenhouse in Roxbury and build 400 backyard gardens in Dorchester, Roxbury, and Mattapan, the neighborhoods with the highest obesity rates in Boston.

The rest of the two-year federal grant will support a variety of initiatives, ranging from expanding bike sharing pro-



Kadeem Allen, who lives nearby, held up a screen so others below could help with weeding.

grams to reducing soda consumption and limiting tobacco access. In the process, the city expects to create up to 50 temporary full-time jobs and 250 summer positions for local youth.

"We like to think of the first lady, Michelle Obama, as now the most famous vegetable gardener in the country, but you all are a close second," Sebelius said of Boston's work supporting local and sustainable food sources. "It really is us learning from you a model that we can take and replicate around the country."

Sebelius said that obesity and tobacco use, as leading causes of chronic disease nationally, contribute to rising health care costs. Today, 75 cents of every dollar spent on health care goes toward treating chronic diseases, she said.

The grants will also have an impact on a local level, especially on those living in neighborhoods with limited access to full-service grocery stores, said Margaret Williams, the Food Project's executive director. Each of the 400 backyard gardens that will be built, for example, can provide a family of four with all its vegetable needs during the summer.

For David Hicks, 18, this is his third summer working as an intern for the Food Project. This year, he is spending about 40 hours a week working on a farm

in his hometown of Lynn, where he also goes to farmers' markets to sell the peas, squash, kale, tomatoes, peaches, radishes, and raspberries he helped cultivate.

"When they told me I was farming, I was like, farming where?" he said. "I didn't think there were any farms around in the city, but there are a bunch of them, actually."

This season, 140 teenagers are working on the more than 40 acres of farm land in Eastern Massachusetts overseen by the Food Project.

Hicks said he used to eat fast food several times a week, but as he continued working on urban farms, trying new foods and bringing leftover fresh produce home, the number of times decreased to less than twice a month. The temptation is still there: On the street where he lives, Hicks can choose from a McDonald's, Burger King, Wendy's, and two Dunkin' Donuts across the street from each other. But when he feels himself slipping, he said, all he has to do is remember the strawberry milkshake.

"That's the one thing I had to get no matter what," he recalls. "And just seeing that, I don't think I've bought one for a year or two."

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Spanish speakers seen as targets

► EXTORTION

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cartels in Mexico and in El Salvador, with crime lords calling families in America for money to be sent for a relative's release.

"Right now, when they talk about kidnappings or ransom, we know what they're talking about," said Antonio Amay of La Comunidad Inc., an Everett-based community agency.

One factor, Amaya said, is that the group may be taking advantage of immigrants' past reluctance to report crimes to police, for reasons such as being fearful to bring attention to their immigration status.

"We are telling them they have to go to police; they have the right to ask on behalf of a family member," he said.

Police Captain Mark O'Toole of Lynn, where the extortion group appeared to be based, said that police know of dozens of people who have received calls, but that more are believed to have been targeted and that they possibly even wired money, without reporting it, out of fear that

real kidnappers could be involved.

"People from the Caribbean, or Latin America, that is reality, the extortion and kidnapping," he said. "When people receive calls like that, they take them seriously."

He said police started receiving complaints in late February. Calls were made in Wakefield and Saugus, too, and the wire transfers and telephone numbers seem to come back to Lynn. Police have obtained an arrest warrant charging Lozado's brother, Jorge Morales, 37, with extorting money from one woman. He remains at large.

The calls had subsided recently, until Boston police received complaints this week from Pena, the woman from Jamaica Plain, and a man in Dorchester. The man told investigators that he received a call saying his son, who lives in New Jersey, would die if he did not send money. The man sent \$500, only to later learn that his son was OK.

Pena told police that the caller said her son was being beaten,

and he ordered her to stay on the phone while she wired the money. By the time she could contact her son and find out he was safe, the money had been retrieved.

Pena said yesterday that she later learned her niece received a similar call saying her child would be kidnapped, but that she hung up the phone, thinking it was a scam. The niece did not report the incident to police.

O'Toole said police are trying to identify the victims' relationship to the caller. One possibility is that the crime organization retrieved numbers from a phone company's database: the numbers that have been called seemed to be in sequence.

He also said that the organization may have ties to a group in Puerto Rico, where Lozado was born, and police have been working with their counterparts there. Authorities in Puerto Rico have reported similar scams, and some money transfers have been made to and from Lynn.

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