

**IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA**

AMANA ACADEMY, INC.)	
)	
Plaintiff,)	
)	Civil Action File No.:
v.)	
)	
COBB COUNTY, GEORGIA, a Political)	
Subdivision of the State of Georgia; and LISA)	
CUPID as Chairwoman)	
of the Cobb County Board of Commissioners;)	
KELI GAMBRILL; JERICA RICHARDSON,)	
JOANN BIRRELL; and MONIQUE)	
SHEFFIELD; and, in their official and)	
individual capacities as Members of the Cobb)	
County Board of Commissioners; ANDREW)	
RAESSLER, both individually and in his official)	
capacity as Director of the Cobb County)	
Department of Transportation; and AMY DIAZ,)	
both individually and in HER official capacity as)	
an Traffic Engineer with the Cobb County)	
Department of Transportation,)	
)	
Defendants.)	
)	
)	
)	

**PLAINTIFF’S VERIFIED COMPLAINT FOR WRIT OF MANDAMUS,
DECLARATORY JUDGMENT, AND INJUNCTIVE RELIEF**

Plaintiff, Amana Academy, Inc. (“Amana”) files this Verified Complaint for Declaratory Judgment, Writ of Mandamus, and Injunctive Relief against Defendants. This suit arises from the actions of the Cobb County Board of Commissioners (“Board”) and the Cobb County Department of Transportation (“CCDOT”) that have prevented Plaintiff Amana from operating a public charter school campus in Cobb County that has been approved by the State Charter Schools Commission of Georgia (“SCSC”) and the Georgia Department of Education (“GADOE”) pursuant to O.C.G.A. § 20-2-2062 et seq.

INTRODUCTION

Amana Academy Inc. is a non-profit educational corporation organized under the laws of the state of Georgia with the mission of preparing students for high academic achievement beyond their expectations, so they become active contributors to building a better world. Amana's public schools are tuition-free and non-sectarian; and its unique educational program is rooted in the Harvard-based EL Education model – a pioneering organization in the world of socially-conscious project-based education that empowers kids to be leaders of their own learning and bring positive change to their communities.

Amana's flagship campus in Alpharetta is authorized by the Fulton County Board of Education and is one of the most diverse and high performing schools - charter or traditional - in the entire state of Georgia. Amana is accredited by Cognia and it has received STEM School certification from the Georgia Department of Education and numerous awards/recognition for high academic achievement, purposeful ethos, and vibrant community. Amana has grown from 130 students in its opening year (2005) to 700+ students today. Amana has successfully operated a public elementary school and middle school in north Fulton County for 18 years.

In 2021, Amana identified a unique opportunity to partner with the Girls Scouts of Greater Atlanta, utilizing space on the Girl Scouts' historic Camp Timber Ridge property in southeastern Cobb County to replicate its STEM-themed EL Education model and operate another public charter elementary school based on its successful campus in Fulton County. Amana entered into a charter contract with the SCSC in August 2021, authorizing Amana to operate the school beginning in the 2022-2023 academic year, to be known as Amana Academy West Atlanta and with a maximum enrollment of up to 632 students in grades K-8. With an approved state charter in hand, Amana initiated conversations with the County, including with Defendant Commissioner

Sheffield, regarding Amana’s plans to open in August 2022. Commissioner Sheffield responded with enthusiastic support for the plan, stating in a December 2, 2021 meeting that “[Amana’s plan] is exactly what my community needs.”

Amana engaged robustly with Cobb County between November 2021 and January 2022 to ensure that its plans to open its doors in August 2022 would be achievable. After initial advising that Amana would need a Special Land Use Permit or a comprehensive land use plan for its intended activities at Camp Timber Ridge, Cobb County ultimately confirmed prior to the end of 2021 that Amana’s status as a state public charter elementary school exempted it from these requirements.

In light of its legal status as a state public charter school, its possession of proper authorization from the SCSC and the GADOE, and in reliance upon the determinations made by Cobb County regarding the inapplicability of county zoning ordinances to Amana, and bolstered by the extremely positive reception to the idea of establishing the school by Commissioner Sheffield and others, Amana continued to plan for the opening of the Amana West campus in August 2022. Amana’s planning in reliance on Cobb County’s recognition of its status as a state public charter school included a series of material financial investments: the purchase of three state-of-the-art modular classroom buildings to install on the Girl Scouts’ Camp Timber Ridge property, the furtherance of negotiations over a long-term lease with the Girl Scouts, the hiring of employees, and internal road improvements at the Pebblebrook Road entrance.

On January 28, 2022, Amana submitted its application for a land disturbance permit (“LDP”) in connection with the installation of three modular classrooms on a section of Camp Timber Ridge known as “Hideaway Hill.” This application, submitted by Amana’s architect, addressed the requirements of Cobb County ordinance 50-71 et seq., that Amana take appropriate

steps to “control erosion and sedimentation by requiring proper provisions for stormwater runoff and the protection of soil surfaces during and after any land disturbing activity so as to promote the safety, public health and general welfare of the people of the county.”

All but one of the County’s departments tasked with reviewing LDPs had completed their internal review. However, CCDOT proved to be the lone holdout and provided a series of required and recommended traffic improvement projects having nothing to do with the site itself or with the control of erosion and sedimentation. CCDOT indicated that Amana would be required to self-finance and complete the required projects prior to approval of the LDP.

Thus began an odyssey that has yet to conclude. Over a year later, Amana still has not received the LDP, has not been able to install its modular classrooms, has not been able to enroll the students it is authorized by the State to enroll, and is now at serious risk of being forced to close its doors. Amana’s attempts to work in good faith with CCDOT have only resulted in an ever-expanding and ever-evolving list of demands, including the relocation of Amana’s entrance from North Allen Road, which Girl Scouts has used as its primary ingress/egress for almost 100 years, to Pebblebrook Road, a switch triggering hundreds of thousands of dollars of additional, unplanned and unbudgeted improvements and inflicting material financial hardship on Plaintiff.

After Amana complied in good faith with this demand, the County moved the goal post again, insisting on a traffic study that was initially a recommendation only. Again, in the belief that Amana was working with a partner who was also acting in good faith, Amana engaged a traffic engineering firm to conduct the required traffic study, an engagement that ate up additional months of time and cost tens of thousands of dollars. CCDOT then rejected the results of the study, insisting in direct correspondence to Amana’s traffic engineering firm that it use private school traffic parameters that should have been inapplicable given Amana’s status as a state public charter

school. CCDOT then used the results of the revised study to demand that Plaintiff install a left turn lane and a deceleration lane, which by the County's own estimate would cost \$1.3 million dollars.

At each step in this process, CCDOT has asserted its gatekeeping role in the LDP approval process to leverage additional concessions from Amana, a small public charter school working with Cobb County for the very first time. This is in spite of O.C.G.A. § 20-2-2068.2's mandate that a charter school be required only to comply with zoning and planning rules that apply to traditional public schools. Despite the County's contention to the contrary, it is clear from their own records that the County does not subject projects presented by the Cobb County School District to the same scrutiny, nor does it demand the same concessions. A copy of the current Working Protocol between the CCDOT and the Cobb County School District provided by the County to Amana confirms this, making clear that while the two agree to collaborate on projects, the CCDOT lacks the authority to compel the School District to implement and/or fund traffic improvements identified by the CCDOT. In fact, the County's demanding and overly burdensome treatment of Plaintiff demonstrates that Amana is being treated no better, and perhaps worse than, a private developer. This is in clear violation of Defendants' statutory restriction to subject charter school only to "the zoning, planning, and building permitting requirements that apply to traditional public schools when constructing or renovating a facility." Plainly, that is not what has occurred here.

These requirements and recommendations take no account of Amana's status as a state public charter school, instead classifying Amana as either a private developer or a private school, depending on the day and the County official. Many of the recommendations included in the original list have over time become requirements, and CCDOT is presently requiring Amana to undertake millions of dollars in traffic infrastructure improvement before it will sign off on the

LDP application. In essence, CCDOT is forcing a public elementary school to pay for County transportation infrastructure improvements and is using the LDP review process as its means to do so, fully recognizing that, in the words of one county official, “this is the only way we can get you to do what we otherwise wouldn’t be able to require...”.

Amana is requesting an extraordinary remedy from this Court because the County’s illegal and unwarranted opposition to the establishment of this legitimate public school has been extraordinary, representing a complete repudiation of the legal obligations the County bears under OCGA 20-2-2068.2. to ensure that Amana “shall only be subject to the zoning, planning, and building permitting requirements that apply to traditional public schools when constructing or renovating a facility.” Amana does not have the financial resources to comply with the illegal requirements being imposed by CCDOT. Unless this Court intervenes to vindicate Amana’s status as a state authorized public charter school, Amana will be unable to enroll the requisite number of students to support its operations, creating an imminent threat to its continued sustainability. This will mean hundreds of students from Cobb County and surrounding areas will be deprived of the opportunity to receive the dynamic and award-winning education program that Amana offers.

In further support of this Complaint, Amana states as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Amana is a charter school approved by the State Charter Schools Commission of Georgia (“SCSC”) approved by both the SCSC and the Georgia Department of Education to operate at its current school site, 5540 N Allen Rd SE Mableton, GA 30126, in Mableton, Georgia.

2. Defendant Cobb County, Georgia, is a corporate body with the power to sue and be sued, is subject to the jurisdiction and venue of this Court and may be served with this Complaint

by service upon Lisa Cupid, Chairwoman of the Cobb County Board of Commissioners, 100 Cherokee Street, Marietta, Cobb County, Georgia 30090 pursuant to O.C.G.A. §9-11-4, et seq.

3. Defendants Lisa Cupid, Kelli Gambrill, Jerica Richardson, Joann Birrell, and Monique Sheffield comprise the individual members of the Cobb County Board of Commissioners and have been named as parties to this Complaint and who are, therefore, subject to the jurisdiction and venue of this Court and who may be served by serving them at 100 Cherokee Street, Marietta, Cobb County, Georgia 30090.

4. Defendants Andrew Raessler and Amy Diaz comprise the Director and an employee of the Cobb County Department of Transportation Director respectively, are employees and/or officials of Cobb County, Georgia and are, therefore, subject to the jurisdiction and venue of this Court and may be served by serving them at 1890 County Services Parkway Marietta, GA 30008.

5. This Court has jurisdiction over the subject matter of this action. This action is for a writ of mandamus, declaratory judgment, and injunctive relief, which is vested within the jurisdiction of the Superior Courts of this state. O.C.G.A. § 9-4-2; Ga. Const. 1983, Art. VI § I, ¶IV.

6. Venue is proper in this Court because, among other reasons, this is an action seeking equitable relief and all defendants reside in this county pursuant to O.C.G.A. § 9-10-30.

7. An active and justiciable controversy exists regarding the legality of the County's actions in seeking to deny Amana the necessary approval for a Land Disturbance Permit ("LDP") in order for Amana to continue operating as a public charter school in Georgia.

FACTUAL BACKGROUND

8. On May 3, 2012, Georgia Governor Nathan Deal signed into law House Bill 797 and House Resolution 1162, creating enabling legislation for the State Charter Schools Commission of Georgia and proposing an amendment to the Constitution of Georgia to clarify the authority of the state to establish special schools, including state charter schools.

9. On November 6, 2012, a question was placed on every ballot in the State of Georgia, asking voters to answer the following questions: “Shall the Constitution be amended to allow state or local approval of public charter schools upon the request of local communities?”

10. Georgia voters answered with a clear “Yes,” with votes in favor of the question of 58.58% versus 41.42% voting “No.” The results in Cobb County were even more overwhelming, with 64.02% of voters voting “Yes” versus 35.98% voting “No.”

11. On July 28, 2021, Amana was approved by the SCSC to replicate the charter school model at its highly successful Fulton County flagship school and entered into a charter contract to start the new school, Amana Academy West Atlanta, in Cobb County (“Amana West”). The contract between the SCSC and Amana is attached hereto as Exhibit A.

12. After reviewing numerous sites, Amana identified as the ideal location for its school a facility in Mableton, Georgia located within Camp Timber Ridge. Camp Timber Ridge is an historic property owned by Girl Scouts of Greater Atlanta, Inc. (“GSGA”) that was first established in 1924 that now serves over 2,000 young women through weeklong summer programming each year between May and July and thousands of additional girls and adults at weekend events throughout the year.

13. A copy of Amana’s lease with GSGA for Camp Timber Ridge is attached hereto as Exhibit B.

14. With an enrollment of under 200 students in its first year, Amana West's total projected budget for Fiscal Year 2022-23 is \$3,118,035.

15. Cobb County School District ("CCSD" or the "School District") currently offers no start-up charter school option for its students. The only start-up charter schools currently operating in Cobb County - Amana West and International Academy of Smyrna ("IAS") – were approved by the SCSC.

16. In 2017, IAS converted to become a state-approved charter school after CCSD refused to approve IAS's local charter renewal. As a result, IAS filed an action in Fulton County Superior Court seeking mandamus and other relief due to Cobb County School District's failure to fund the charter school at the same level as other schools in the School District in violation of IAS's constitutional rights. A copy of IAS's Verified Complaint is attached hereto as Exhibit C.

A. Plaintiff's Good Faith Attempts to work with Defendants on LDP Approval

17. On December 2, 2021, Amana Executive Director Ehab Jaleel and GSGA CEO Amy Dosik met with Commissioner Sheffield to share the unique vision for Amana West and to clarify zoning waivers for public schools. Commissioner Sheffield departed this meeting stating, "This is exactly what my community needs."

18. On December 8, 2021, Mr. Jaleel relayed to Commissioner Sheffield that Cobb County had confirmed that the comprehensive land use plan would not require amendment given Amana's status as a public school.

19. On January 28, 2022, Amana submitted its LDP application to Defendant Cobb County.

20. Defendant Sheffield then convened a video meeting with CCDOT, Amana and GSGA to go over the parameters of the proposed project on February 28, 2023.

21. Following concerns raised by Defendants regarding increased traffic on North Allen Road, representatives from Amana and GSGA met with Defendants Raessler and Diaz at Cobb County Department of Transportation (“CCDOT”) headquarters on March 7, 2022. During this meeting, CCDOT proposed Pebblebrook Road as an alternative entrance.

22. On March 17, 2022, Ms. Rahman sent a letter to CCDOT outlining a proposal for using North Allen Rd. as the primary entrance/exit with conditions until funds could be secured to move the entrance to Pebblebrook Road.

23. On April 1, 2022, Defendant Diaz provided Amana with specific questions about Amana's phased growth and with direction for the North Allen Rd. traffic study. Although Plaintiff was required to retain its own independent traffic engineers, Defendants proceeded to work directly with Plaintiff's engineers and directed specific requests related to the traffic study.

24. On April 18, 2022, Ms. Rahman provided an email update on the traffic study to Defendant Raessler and requested a meeting to confirm any outstanding requests by CCDOT to complete the study. In response to Ms. Rahman's email, Defendant Raessler stated that “A typical LDP would have been denied based on the provided information and measures.”

25. On April 27, 2022, Amana attended a video meeting with CCDOT and Commissioner Sheffield to review progress on the traffic study.

26. On May 10, 2022, Amana submitted a draft traffic study to CCDOT.

27. On May 18, 2022, Mr. Jaleel sent an email to Commissioner Sheffield and CCDOT informing them that Amana would open school with existing buildings at Camp Timber Ridge given the delayed approval for the LDP and requesting a meeting to review the traffic study for possible solutions.

28. On May 27, 2022, during a follow-up meeting between Amana, CCDOT and Commissioner Sheffield, CCDOT officials requested a new traffic study be performed on Pebblebrook Road.

29. In June 2022, Defendant Diaz required Amana's traffic engineers to include assumption changes when generating the second traffic study using access off Pebblebrook Road, directed Amana's civil engineer to extend the survey of Pebblebrook Road and also raised a concern about a possible variance.

30. On June 29, 2022, Amana's engineers submitted the second traffic study to CCDOT, identifying Pebblebrook Road as the primary entrance/exit and using traffic comparisons for public school

31. In reliance on Defendants affirmation that Amana would be able to obtain the LDP if it relocated its entrance, Amana expended over \$375,000 to improve the driveway on Pebblebrook Road and make other facility improvements.

32. On July 28, 2022, Defendant Diaz responded via email to Amana's second traffic study, adding more requirements and requesting that it revise the study to compare its traffic patterns to private schools rather than public schools.

33. On August 2, 2022, Mr. Jaleel sent a follow-up request via email to Defendants Sheffield, Raessler, and Diaz reminding them that Amana was already six months behind schedule for installing modular classroom buildings and pleading for collaboration to find "practical solutions to get unstuck." This email correspondence is attached hereto as Exhibit D.

34. Defendant Raessler responded later that afternoon, requesting further revisions to the traffic study and insisting on the revised traffic study and driveway access points on

Pebblebrook Road, insisting that this was required before any meeting could occur in order to have “an informed discussion.” Id.

35. Two days later, during the weekend before Amana was set to open its doors to its students, Defendant Sheffield followed up via email to express her “disappointment” that Amana would attempt to open school without providing the updated traffic study, even though Mr. Jaleel has alerted her about Amana’s plans three months prior and no traffic study was required for Amana to open Id.

36. On August 6, 2022, Mr. Jaleel emailed CCDOT and Commissioner Sheffield to inform them that Amana’s engineers maintained the original traffic study was sufficient and that the CCDOT’s additional requests for amendment and more studies were unnecessary. In that email, Mr. Jaleel again requested a meeting.

37. Later that day, Ms. Diaz again sought confirmation that the revised traffic study would consider only private school traffic patterns as a comparison for Amana’s.

38. Despite numerous requests for a follow-up meeting to discuss next steps, Amana heard nothing further from CCDOT until August 24, 2022, when Ms. Diaz emailed confirmation that Amana’s traffic study (using metrics meant for private schools that she insisted on) had been accepted in its entirety. Mr. Raessler confirmed requested Amana's plans for addressing project improvements based on the accepted traffic study, and a resubmission of the LDP package showing access off Pebblebrook Road.

39. Given the lack of cooperation by Defendants, on September 2, 2022, Mr. Jaleel informed CCDOT and Commissioner Sheffield that Amana has engaged outside counsel to ensure Amana was being treated in a manner consistent with its public-school status.

B. Defendants have maintained “Long-Standing Good Relationship and History of Cooperation” with Cobb County School District

40. In August 2020, CCDOT entered a “Working Protocol” agreement with CCSD confirming that the parties have a “long-standing good relationship and a history of cooperation” that the DOT wished to continue. The Working Protocol is attached hereto as Exhibit E.

41. The Working Protocol confirms that upon request of the School District, the DOT may provide, at its own cost and with its own staff, a “Traffic Engineering Study related to existing and proposed school sites.” Id. at p. 3.

42. The Working Protocol further establishes, under a provision titled “Expeditious Permitting,” that the parties will “continue to cooperate on expeditiously permitting District related projects that are time sensitive.” Id. at p. 4.

43. As further demonstration of this long-standing good relationship and history of cooperation, Defendant Cobb County has approved numerous school zone improvement projects in support of School District construction projects. For example, on January 10, 2017, the Board of Commissioners approved a contract with Baldwin Paving Company, Inc., for up to \$980,902.85, for school zone improvements at Mountain View Elementary School, a School District property. The Cobb County Change Order is attached hereto as Exhibit F.

C. Defendants have Demonstrated a Lack of Cooperation towards Plaintiff Amana

44. Under O.C.G.A. § 20-2-2068.2, charter schools are required only to comply with “zoning, planning, and building permitting requirements that apply to traditional public schools.”

45. Due to its status as a charter school authorized under the Charter School Act (O.C.G.A. § 20-2-2060 et seq.), Amana is not subject to the LDP permitting requirements demanded by the County unless the County can demonstrate that it applies these same mandates to the CCSD.

46. As summarized above, Plaintiff Amana’s treatment by the Defendants has been the exact opposite of the long-standing cooperation and expeditious permitting the School District has enjoyed from Defendants..

47. Defendants have repeatedly stated that Amana is being treated the same as a private developer. However, Amana is a public charter school, not a private developer.

48. As further demonstration of this, on November 2022, Defendants requested that Plaintiff and GSGA draft a “Developer’s Memorandum of Agreement,” which was originally submitted to Defendant Raessler on or about November 14, 2022. The draft Developer’s MOA is attached hereto as Exhibit G.

49. The Developer’s MOA sets forth terms that include required road improvements by Plaintiff and GSGA, which by Defendants’ own estimate will cost \$1,380,875.00 and will include no monetary contribution by Defendants and no cost caps to protect Amana. Defendants’ cost estimate is attached hereto as Exhibit H.

50. After more than a year of good faith negotiations with Defendants, Amana still has not received approval of the LDP as of the date of this filing.

51. State funding for any charter school approved and authorized by the SCSC is derived exclusively from student enrollment. O.C.G.A. §§ 20-2-161, 20-2-2089. If Amana loses students to other local schools, Amana will lose funding and may not receive funds sufficient to continue operating. Amana will be irreparably harmed if it cannot install its modular classrooms and it has no adequate remedy at law.

D. Defendants Lack Statutory Authority to Withhold a Land Disturbance Permit from Amana as a Public School

52. Defendants have not identified any provision in the Official Code of Georgia that authorizes a County to mandate traffic improvements as part of an LDP. An LDP is an environmental permitting process established under state law to ensure the protection of soil surfaces. See O.C.G.A. § 12-7-1 et seq.

53. The express purpose and intent of the Cobb County ordinances regulating “Land Disturbing Activities,” found in Article III of Chapter 50 of the Cobb County Municipal Code, is to “control erosion and sedimentation by requiring proper provisions for stormwater runoff and the protection of soil surfaces during and after any land disturbing activity....” Cobb County Ordinance, § 50-73.

54. This section of the County municipal code make no reference to traffic impact, nor would such a requirement be appropriate in a chapter of the county code intended to address only “Environment” issues. Indeed, the drafters of this legislation expressly confirm that the County’s authority to administer and enforce these provisions arises out of the “Erosion and Sedimentation Control Act of 1975, O.C.G.A. § 12-7-1 et seq.” Any reference to traffic impact is similarly absent from the referenced Georgia law.

55. By contrast, Chapter 134, titled “Zoning,” is the provision of the County code that establishes clear authority for the submission and review of a traffic impact studies prior to approval by the Community Development Agency.

56. The County Ordinance addressing rezoning and special use permits explicitly references review of traffic impact studies. Indeed, a special land use permit is required regardless of zoning classification for a non-public school, including any “[p]rivate, parochial or other elementary, middle, junior or high schools which are not a part of the public school system of the state...” Cobb County Ordinance, § 134-37.,

57. Because Amana is a public charter school, authorized by the SCSC, it must be treated the same the School District, including the expeditious permitting of its LDP - assuming Defendants can demonstrate that a similar LDP has been required of the School District - and without the requirement to submit or gain approval for a traffic impact study and related self-funded offsite improvements, since this would be contrary to the express terms of CCDOT’s Working Protocol with the School District.

COUNT I—WRIT OF MANDAMUS

58. Plaintiff reasserts and re-alleges the allegations contained in the foregoing numerical paragraphs as if each such allegation is set forth herein in its entirety.

59. The illegal refusal by the Defendants to issue Amana’s LDP was arbitrary, capricious, wrongful and in bad faith.

60. Defendants have violated Plaintiff’s constitutional rights to due process and equal protection by refusing to allow issuance of the LDP or otherwise approve installation of Amana’s modular classrooms.

61. Amana is required to receive approval from Defendants for installation of modular classrooms in order to continue the operation of its charter school and to enroll up to its authorized student capacity.

62. As a public school, Defendants have a duty to provide Amana with approval for installation of the modular classrooms. This duty is non-discretionary and is not contingent upon a traffic study or the completion of unrelated offsite improvements such as a turn lane or deceleration lane.

63. Amana has no way to appeal the denial of approval for installation of the modular classrooms based on traffic concerns because there are no provisions in the Official Code of Georgia that authorize Defendants to make installation of modular classrooms contingent upon off-site road improvements.

64. As a result of Defendants' illegal actions, Amana has been denied its lawful right to continue operating a charter school pursuant to O.C.G.A. § 20-2-2062 et seq. and to be subject "only to zoning, planning, and building permitting requirements that apply to traditional public schools when constructing or renovating a facility..." O.C.G.A. § 20-2-2068.2(i).

65. Amana will lose students if it cannot install modular classrooms prior to the beginning of the 2023-24 academic year. Because its funding is dependent on student counts, a loss of enrollment will threaten Amana's sustainability. Amana will thus be irreparably harmed if these modular classrooms are not installed in time for the upcoming school year, and it has no adequate remedy at law.

66. Pursuant to O.C.G.A. § 9-6-20, Plaintiff seeks mandamus relief against Defendants to provide the necessary approval to authorize installation of these modular classrooms.

COUNT II—DECLARATORY JUDGMENT

67. Plaintiff reasserts and re-alleges the allegations contained in the foregoing numerical paragraphs as if each such allegation is set forth herein in its entirety.

68. Defendants have violated Plaintiff's constitutional rights to due process and equal protection by refusing to allow Amana's right as a public charter school to install the modular classrooms on its site necessary to educate the students for which the State of Georgia has approved Amana to serve.

69. Defendants have exceeded their statutory authority to enforce reasonable zoning and planning requirements to charters by manipulating an environmental regulation, the Land Disturbance Permit, as a means of requiring traffic improvements outside the charter school site.

70. Defendants have stated that they will not approve installation of Amana's modular classrooms absent Amana's agreement to undertake substantial and unduly expensive road improvements outside the property.

71. In accordance with the provisions of the Declaratory Judgment Act, O.C.G.A. §§ 9-4-1 et seq., Plaintiff is insecure as to its rights under the law.

72. Amana has been denied its lawful right to operate a public charter school pursuant to O.C.G.A. § 20-2-2062 et seq. and in violation of the Fourteenth Amendment to the United States Constitution.

73. The modular classrooms are required to be installed in order to ensure the continued operation of the school.

74. Amana is likely to lose students if it cannot install the modular classrooms in time for the upcoming school year. Because its funding is dependent on student counts, Amana will lose funding and may not be sustainable if it cannot confirm its ability to install these classrooms.

Amana will be irreparably harmed if it cannot install these classrooms, and it has no adequate remedy at law.

75. Pursuant to O.C.G.A. §§ 9-4-1 et seq., Amana seeks a declaration that under Georgia law, charter schools have the same rights as any other public school in Georgia and Defendants must extend the same collaboration and expeditious permitting approval to Amana that it has offered to the School District.

COUNT III—DECLARATORY JUDGMENT (IN THE ALTERNATIVE)

76. Plaintiff reasserts and re-alleges the allegations contained in Paragraphs 1-65 as if each such allegation is set forth herein in its entirety.

77. In the event the Court finds that Defendants are authorized under Georgia law to require an LDP and related traffic improvements from a public charter school prior to the issuance of such permit, Plaintiff avers that it has acquired a vested right in the issuance of the LDP by Defendants based upon existing ordinances and assurances by Defendants Raessler, Diaz and Sheffield.

78. Plaintiff seeks a declaration that they have a vested right for the LDP to be processed and approved based on these assurances and pursuant to the regulations in effect as of the time of Plaintiff's application on January 28, 2022, and that this Court declare that Defendants' denial be deemed illegal, null, void and unconstitutional.

79. There is an actual and immediate need for interpretation by the Court as to Plaintiff's vested rights and concerning the legality and/or constitutionality of the Defendants' effective denial of their application.

80. This matter is ripe for immediate review and Plaintiff lacks an adequate remedy at law.

81. Plaintiff seeks a judicial declaration by this Court that it has a vested right to the processing and approval of the Application in accordance with the permitting regulations that existed as of January 28, 2022 and that Defendants' denial is illegal, null, void and unconstitutional.

WHEREFORE, Plaintiff prays for judgment as follows:

a) For a judgment declaring that Amana is not required to perform road improvements in order to be approved for installation of modular classrooms at its school site.

b) For a writ of mandamus ordering the Cobb County, Georgia and the Chairwoman of the Cobb County Board of Commissioners and other Cobb County Officials named in this Complaint perform their official duties and functions and issue Plaintiff's LDP applied for by the Plaintiff within 10 (ten) days of the date of this Court's Order;

c) That this Court find and declare that Defendants have violated Plaintiff's constitutional rights to due process and equal protection by refusing to allow Amana's right to install the modular classrooms on its site necessary to educate the students whom the State of Georgia has approved Amana to serve;

d) In the alternative, that this Court find and declare that Plaintiff has a vested right to have its LDP application processed and approved in accordance with its status as a state public charter school;

e) A Temporary Restraining Order, Preliminary Injunction and Permanent Injunction that restrains Defendants from requiring that Amana perform road improvements in order to install modular classrooms.

- f) That the Court award Plaintiff monetary damages to compensate it for the unlawful taking of their property without prior payment of just and adequate compensation;
- g) That the Court award Plaintiff its attorney's fees incurred in the prosecution of this action;
- h) That this case be expeditiously tried in accordance with preferential statutory requirements; and,
- i) For such other and further relief as this Court deems just and appropriate based upon the evidence, facts and circumstances.

Respectfully Submitted this 13th day of February, 2023.

GARVIS L. SAMS
Georgia Bar No. 623950
PARKS F. HUFF
Georgia Bar No. [REDACTED]
ROBERT L. FORTSON
Georgia Bar No. 142684

Attorneys for Plaintiff Amana Academy, Inc.

VERIFICATION

Before me, the undersigned authority, personally appeared Ehab Jaleel, Executive Director of Amana Academy, Inc., who, being duly sworn by me, deposes and says as follows: I have personal knowledge of the allegations contained in Plaintiff's Verified Complaint, unless otherwise set forth, and the same are true and correct.

This ____ day of February, 2023.

Ehab Jaleel

Sworn to and subscribed before me
This ____ day of _____, 2023.

Notary Public

My Commission Expires _____

EXHIBIT A

EXHIBIT B

EXHIBIT C

EXHIBIT D

EXHIBIT E

EXHIBIT F

EXHIBIT G

EXHIBIT H

EXHIBIT H