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Perrotto Builders, Ltd. v. Reading School Dist.

Commonwealth Court of Pennsylvania - January 9, 2015 - A.3d - 2015 WL 117020

Perrotto Builders, Ltd. appealed the order of the County Court of Common Pleas that denied its request for a preliminary injunction to stop the implementation of a construction contract to renovate several school buildings in the Reading School District.

Perrotto contended that the School District did not adhere to the terms of its own bidding procedures because it changed the stated basis for awarding the contract after the bids were opened when the School District reduced the budget amount for the project from \$40 million to \$33 million in order to fund emergency repairs that were expected to develop until such time as it could issue new bonds. The School District removed the elementary schools from the scope of work involved and recomputed the total base bid on the remaining project for each bidder, which resulted in the contract being awarded to another contractor.

Perrotto acknowledged that the School District could revise the scope of the work for budgetary reasons, but contended that the School District had to award the contract solely on the basis of the lowest total base bid on the full project. The School District would then be required to award the contract to Perrotto and then use a change order to reduce the scope of work.

The trial court refused to grant the preliminary injunction for several reasons. Chief among them was its finding that the School District did, in fact, follow the terms of its bid procedures.

The appeals court affirmed, holding that the School District was permitted by the bidding documents to change the scope of the project and the calculation of the lowest total base bid after opening the bids.