

United States Court of Appeals  
FOR THE  
SECOND CIRCUIT

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At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 17<sup>th</sup> day of February , two thousand and twelve,

Present:

John M. Walker,  
Pierre N. Leval,  
Guido Calabresi,  
*Circuit Judges.*

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The Bronx Household of Faith, Robert Hall, and  
Jack Roberts,

*Plaintiffs-Appellees,*

v.

Board of Education of the City of New York and  
Community School District No. 10,

*Defendants-Appellants.*

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**ORDER**

Docket Number: 12-0605

The Board of Education of the City of New York's petition for a stay of the district court's order is DENIED. A further order and explanation will be filed shortly.

We call to the district court's attention an appearance of overbreadth of its order. The district court stated that it "issues a temporary restraining order enjoining defendants from enforcing" regulation D-180 . As stated the order could be construed to enjoin the Board from enforcing its regulation not only against the plaintiffs, but also against non-parties as well. The Board has thus complained that, at the last minute, it is being required to process more than 23 new permit applications. This is a misunderstanding of the order. The order should be

understood as enjoining the City from enforcing its regulation against the parties to the case—not as enjoining the City from enforcing its order against non-parties. The district court’s finding that Bronx Household has shown likelihood of success on the merits of *its* case does not justify enjoining the Board from enforcing its order against non-parties. The Board does not risk contempt if it enforces D-180 against persons or entities which are not parties to the litigation.

FOR THE COURT:  
Catherine O’Hagan Wolfe, Clerk

  
