

STATE OF INDIANA )  
 ) SS:  
MARSHALL COUNTY )

IN THE MARSHALL SUPERIOR COURT # 1  
2002 TERM

CITY OF PLYMOUTH, et al

CAUSE NO. 50D01-9702-MI-003

VS

BOARD OF TRUSTEES OF THE  
PUBLIC EMPLOYEES' RETIREMENT  
FUND, as pertaining to its administration  
of the 1977 Police Officers' and Fire-  
fighters' Pension and Disability Fund; and  
JOHN DOE

**FILED**  
IN OPEN COURT  
JAN 08 2002  
*James D. Fisher*  
CLERK OF SUPERIOR COURT No. 1  
MARSHALL COUNTY, STATE OF INDIANA


ORDER

This cause is before the Court upon the Motion of petitioners for Judicial Review and the opposition thereto of the Board of Trustees. Now the Court being duly advised, hereby determines as follows:

1. The Court finds in favor of the petitioners City of Plymouth, et al in that the Board failed to follow its own rule in providing service, notice, or a hearing to the City of Plymouth in the underlying proceeding.
2. The Court therefore orders the Board of Trustees of the Public Employees Retirement Fund to provide appropriate service of records of proceedings, to issue notice, and to hold a hearing to make a final determination of the status of John Doe in this cause.
3. The Court observes that petitioners have requested a declaration that the previous issued order is void *ab initio*. The Court declines to issue such a declaration; the Court believes that no action could have been taken which would have been deemed to be a final action but that the Board of Trustees may have properly considered such action to be a preliminary determination and may choose to proceed as if it were a preliminary determination; such a determination would in no way modify the requirement for a final hearing pursuant to Indiana Code 36-8-8-13.1 (d).

4. Accordingly, the defendant Board of Trustees shall report to the parties and to this Court as to how it intends to treat the earlier determination in this cause (i.e. as an Order void *ab initio*, as a Preliminary Determination, etc) timely, and shall proceed with it administrative determination.

SO ORDERED this 8<sup>th</sup> day of January, 2002.

  
Douglas B. Morton, Special Judge  
Marshall Superior Court # 1