
STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE
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INDIANA GOVERNMENT CENTER NORTH
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INDIANAPOLIS, IN 46204

May 20, 2008

Mr. Howard Young
President, Board of Trustees
Clark-Pleasant Community School
50 Center Street
Whiteland, Indiana 46184

Dear Mr. Young,

I received the Petition for Reconsideration ("Petition") on May 7, 2008, which you signed on behalf of the Clark-Pleasant Board of Trustees. I carefully reviewed the original case file regarding the proposed lease rental agreement and \$60 million project denied on April 8, 2008. After a review of your Petition, the original Order, and the relevant law, I find that the Department's Order on April 8, 2008 is final and binding and will not be overturned for the reasons presented to the Department of Local Government Finance ("Department") in the Petition.

There are two primary reasons for this decision. First, the Indiana Tax Court has stated that "administrative bodies may not usually rescind their final determination absent some statutory provision granting that authority." *ANR Pipeline Co. v. Indiana Dep't of State Revenue*, 672 N.E.2d 91, 94 (Ind. Tax Ct. 1996)(citing *Adkins v. City of Tell City*, 625 N.E.2d 1298, 1302 (Ind. Ct. App. 1993)). However, the Tax Court acknowledges that rule is not absolute "when an administrative agency recognizes its own error of law, it may correct that error." *Id.* (citing *Adkins*, 625 N.E.2d at 1302). An error of law occurs when "a party, having full knowledge of the facts, comes to an erroneous conclusion as to their legal effect." *Id.* (citing *Black's Law Dictionary* 5th ed. at 903). In this particular case, the Petition does not provide any statutory provision granting the Department the authority to rescind the Order; nor is the Department aware of any such statutory authority. Also, the Board of Trustees did not allege any legal error on the part of the Department in the Order.

Second, even if the Department had the authority to rescind the Order, the Petition does not provide any new compelling information that would persuade the Department to grant the Petition. The only new information contained within the Petition is the school corporation's willingness to now meet with the fifty (50) member Decades of Excellence Task Force about a proposed reduced project containing the possibility that the project can be reduced by at least \$7 million. It is very unfortunate that this meeting between the Board of Trustees and the remonstrators did not take place prior to the issuance of the Order. As you may recall, I sent the members of the Board of Trustees a letter dated February 6, 2008 stating that I had met with both representatives of the school corporation and those who organized the remonstrance about the

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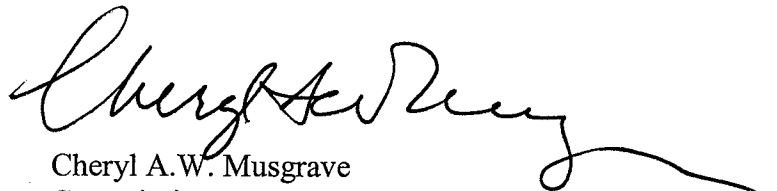
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proposed project. In that letter, I informed the Board of Trustees that I had directed the Department's Deputy Commissioner Tony Samuel to contact Superintendent John T. Coopman to meet with remonstrators "in hopes of bringing both sides together and bridging the gap that currently exists." I then respectfully requested your cooperation in requiring a joint meeting of the Superintendent and the remonstrators. Shortly thereafter, I received a letter signed by all of the members of the Board of Trustees respectfully declining the offer to meet with the remonstrators. The letter stated that, from the perspective of the Board of Trustees, "no gap exists," and that the "proposed plan best meets the programmatic/educational needs as well as the enrollment growth needs of the school district now and in the future."

The Petition states that the school corporation now believes it can reduce the cost of the project by at least \$7 million through the elimination of the existing middle school conversion to a ninth grade center; the elimination of the renovation of the high school; and a reduction of costs and square footage at the new middle school. There is even a possibility, according to the Petition, that after the meeting with the Task Force the project could be reduced even further.

Although I am extremely pleased both sides are discussing this project, in the absence of a persuasive argument that an error of law is contained within the Order and the failure of the school corporation to present to the Department a firm alternative plan, the Department hereby denies the Petition.

Sincerely,



Cheryl A.W. Musgrave
Commissioner

cc: Jane N. Herndon