

**DEPARTMENT OF LOCAL GOVERNMENT FINANCE
100 NORTH SENATE AVENUE
IGC-N, ROOM N1058
INDIANAPOLIS, INDIANA 46204**

**IN THE MATTER OF THE PETITION OBJECTING)
TO THE RE-ESTABLISHMENT OF A CUMULATIVE) OBJ 19-002
FIREFIGHTING BUILDING AND EQUIPMENT)
FUND BY THE TOWN OF CARLISLE)**

FINAL DETERMINATION

The Department of Local Government Finance (“Department”) has reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

INTRODUCTION

1. Indiana law allows a town to establish or re-establish a cumulative fire fund (“Fund”), DLGF Fund Number 1191, to provide money for any purposes recognized by IC 36-8-14-2. Ten or more taxpayers may object to a town’s proposed Fund establishment. After a hearing on the objection and consideration of the evidence, the Department approves, disapproves, or modifies the proposed Fund.
2. This Order is a response to a petition filed by at least ten taxpayers within the Town of Carlisle (“Town”) objecting to the tax rate for the Town’s proposed Fund, which is one type of cumulative fund governed by IC 6-1.1-41.
3. Since at least ten taxpayers in the Town filed a petition objecting to the re-establishment of the Fund, the Department was required to conduct a public hearing on the taxpayers’ objection petition.
4. For the reasons stated below, the Department approves the Town’s proposed Fund re-establishment.

RELEVANT PROCEDURAL HISTORY

5. The legislative body of a Town may establish or re-establish a Fund under IC 6-1.1-41 to purchase fire protection equipment, including housing, that will be used to serve the entire territory. The Fund may also be used to pay off debt incurred by the participating units to purchase fire protection equipment. IC 36-8-14-2.

6. To provide for the Fund, a Town fiscal body may levy a tax on all taxable property within the Town in compliance with IC 6-1.1-41. The maximum property tax rate that may be imposed for property taxes first due and payable during a particular year is \$0.0333. IC 36-8-14-4(b).

7. The requirements and procedures specified in IC 6-1.1-41 concerning the establishment or re-establishment of a cumulative fund, the imposing of a property tax for a cumulative fund, and the increasing of a property tax rate for a cumulative fund apply to:

- a. the establishment or re-establishment of a Fund;
- b. the imposing of a property tax for a Fund; and
- c. the increasing of a property tax rate for a Fund.

IC 6-1.1-41-2.

8. At least ten (10) taxpayers may object to a proposed Fund re-establishment. IC 6-1.1-41-6(1).

9. Notice of the Town's proposal to re-establish its Fund was given to the affected taxpayers in the *Sullivan Daily Times* on January 15 and January 22, 2019. *Notice to Taxpayers Affidavit of Publication*. IC 6-1.1-41-3(a).

10. On February 5, 2019, the Town held a public hearing and adopted an ordinance re-establishing the proposed Fund. The notice and ordinance stated that the purpose of the Fund is for "[t]he purchase, lease, or grant matching funds for fire truck and/or equipment." *Notice to Taxpayers Affidavit of Publication; Ordinance Establishing Cumulative Firefighting Building and Equipment Fund*. IC 6-1.1-41-3(a), (e).

11. The Town published a Notice of Adoption in the *Sullivan Daily News* on February 14, 2019. Publication of this Notice triggered a 30-day remonstrance period. *Notice of Adoption Affidavit of Publication*. IC 6-1.1-41-3(e).

12. A petition was filed by at least ten qualified taxpayers objecting to the proposed Fund re-establishment. The objection petition was timely filed with the County Auditor on March 5, 2019, duly certified to the Department on April 12, 2019. *Objection Petition; Certificate of Auditor*. IC 6-1.1-41-6(4).

13. The Department set the date for a public hearing on the objection petition for July 22, 2019 and mailed notice of the hearing to the county auditor, the Town clerk-treasurer, and all verified taxpayers whose names appeared on the petition¹. *Notice of Hearing to County Auditor; Notice of Hearing to Taxpayer*. IC 6-1.1-41-7, 8.

14. The Department conducted a public hearing on July 22, 2019, at the Carlisle Town Hall, 201 W. Harrison Street, Carlisle, Indiana 47838, at 1:00 p.m. local time. David Marusarz, Deputy General Counsel for the Department, conducted the public hearing.² *Notice of Hearing to County Auditor; Notice of Hearing to Taxpayer; Hearing Officer's Report*. IC 6-1.1-41-7.

¹ The County Auditor had verified ten taxpayers on the petition.

² The hearing was audio recorded by the hearing officer. The recording is available at the Department's Indianapolis office for inspection and copy.

15. At the hearing, no one testified as Objectors. The following testified as Proponents:
Suzan Ridgway, Town Clerk-Treasurer
Hearing Officer's Report.

16. The following exhibits were offered at the hearing:
Proponents' Exhibit 1: Minutes of the Town Board, March 5, 2019.
Hearing Officer's Report.

17. The Department recognizes the following items as part of the Record: (1) the Hearing Officer's Report; (2) the Hearing Procedures Script; (3) the Hearing Record of Evidence; (4) a digital recording of the hearing; and (5) the hearing sign-in sheet. Throughout this Order, all citations to an individual's testimony will also be considered a citation to the Hearing Officer's Report and the digital recording of the hearing.

SUMMARY OF THE PARTIES' CONTENTIONS

A. Summary of Objectors' Contentions

18. None of the Objectors provided oral testimony or written evidence supporting their contentions. However, in their petition, the Objectors stated they opposed the raising of taxes in the Town. *Hearing Officer's Report; Objection Petition.*

B. Summary of Proponents' Contentions

19. Suzan Ridgway, Clerk-Treasurer for the Town, stated that the purpose of the re-establishment was to maintain the tax rate at the maximum allowed in order to make necessary payments for fire equipment, and that this would not be a tax increase. *Testimony of Suzan Ridgway.*

20. Ms. Ridgway also provided a copy of the minutes of the March 5, 2019, meeting of the Town Board. The minutes purport that the Fund re-establishment is not a tax increase but "redistribut[es] some of the tax money [the Town] already receive[s] into a dedicated fund for fire equipment." *Proponents' Exhibit 1.*

ANALYSIS

21. To date, no evidence has been presented that the Town had violated any procedural requirement in the adoption of the proposed Fund.

22. The only argument levied by the Objectors is that this would result in a tax increase. The Department's own records show that the Town last adopted a levy for the Fund in 2016, with a rate of \$0.0153. *Sullivan County 2016 Budget Order.* For 2017, 2018, and 2019, the Town adopted a budget for the Fund but not a levy. The Department is unconvinced that this would not constitute a tax increase, since in recent years the Town has not imposed any tax for the Fund. Moreover, the Town re-established the rate to its maximum allowed by statute, which is one and eight-tenths cents (\$0.0180) higher than what it was in 2016. Admittedly, depending on how the

Town levies for its other funds, this re-establishment could be tax neutral. But that is contingent on other factors and Town needs that are not directly related to the Fund.

23. That being said, at the hearing the Town provided evidence showing that there is a need for the Fund. Specifically, to keep being able to acquire fire equipment and secure grant money to supplement the Fund. In addition, the procedures for re-establishing the Fund were followed properly. The Department will not second guess the decision of local elected officials which has been properly adopted according to Indiana law. The Department has not been shown any evidence to the contrary.

CONCLUSION

24. After weighing the testimony and evidence, the Department is not persuaded by the Objectors and concludes that there is no legal basis for denying the Town's proposed Fund re-establishment.

25. Consequently, the Department hereby **APPROVES** the Town's proposed Fund re-establishment.

26. The Department approves the levying of a tax in the amount of three and thirty-three hundredths cents (\$0.0333) per one hundred dollars (\$100) of assessed valuation for 2019 and thereafter until the rate is reduced or rescinded, subject to existing maximum levy limits under IC 6-1.1-18.5-3. Any levy previously established for this purpose is hereby rescinded. To obtain the rate, the Town must advertise and adopt the rate and the appropriate levy amount as part of its 2019 budget in compliance with the provisions of IC 6-1.1-17-3. Fund dollars may only be used for those purposes outlined in IC 36-8-14.

28. The Department notes that it is exempt from the Administrative Orders and Procedures Act (IC 4-21.5-2-4).

Dated this 31st day of July, 2019.

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE


Wesley R. Bennett, Commissioner