

Bond Case Briefs

Municipal Finance Law Since 1971

PUBLIC FINANCE - INDIANA

Gary Community School Corp. v. Indiana Dept. of Local Government Finance

Tax Court of Indiana - August 29, 2014 - N.E.3d - 2014 WL 4258826

Gary Community School Corporation entered into an agreement with the Gary Community School Building Corporation to build/lease-back two elementary schools.

To pay its obligations under the lease, the School Corp. issued a bond and secured two common school loans. In the ensuing years, the School Corp. used surplus monies from its general fund to pay its rental obligations, but the surplus dwindled more rapidly than anticipated. Accordingly, the School Corp. incorporated an exempt debt service fund levy into its 2011 Budget. The School Corp. subsequently submitted the budget to the Indiana Department of Local Government Finance (DLGF) for review.

The DLGF reduced the School Corp.'s exempt debt service fund levy by removing all the amounts related to the payment of the rental obligations. The DLGF explained that it had done so: 1) because there was no indication that the School Corp. had used an exempt debt service fund levy to pay its rental obligations in the past; 2) School Corp. had not availed itself of the taxpayer remonstrance process; and 3) School Corp. had not established that there were insufficient funds in the general fund to satisfy its obligations. School Corp. appealed.

The Tax Court held that:

- DLGF exceeded its authority in reducing School Corp.'s exempt debt service fund levy because the statutory framework for reviewing such levies did not authorize the DLGF to consider other sources of funding (e.g., its general fund).
- Although the original DLGG-approved lease indicated that the School Corp.
- did not need a property tax levy beyond that provided under Indiana Code § 6-1.1-19 to pay its bond obligations, that did not preclude the Corp. from ever seeking a property tax levy to pay its rental obligations.
- DLGF lacked the authority to reduce the School Corp.'s exempt debt service fund levy to redress its avoidance of the taxpayer remonstrance process.