MEMORANDUM DECISION

IN THE
Court of Appeals of Indiana

Indiana Classical Schools Corp.,
Appellant-Plaintiff

v.

Carmel Clay School Board of Trustees,
Appellee-Defendant

April 17, 2024

Court of Appeals Case No.
23A-PL-840

Appeal from the Hamilton Superior Court

The Honorable J. Richard Campbell, Judge

Trial Court Cause No.
29D04-2204-PL-2449

Memorandum Decision by Judge Pyle
Judges Vaidik and Mathias concur.

Pyle, Judge.

Statement of the Case

[1] Indiana Classical Schools Corporation ("Indiana Classical"),[1] appeals the trial court's order granting summary judgment to Carmel Clay School Board of Trustees ("Carmel Clay") and denying summary judgment to Indiana Classical. Indiana Classical argues that the trial court erred by granting summary judgment to Carmel Clay. Concluding that the trial court did not err, we affirm the trial court's judgment.

[2] We affirm.

Issue

> Whether the trial court erred by granting summary judgment to Carmel Clay.

Facts

[3] This appeal involves the interpretation and application of the statutes that set out the procedure and circumstances that would require a school corporation to offer a school building to a charter school[2] for lease or sale for one dollar

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[1] According to the parties, Indiana Classical does business as Valor Classical Academy ("Valor"). In their appellate briefs, the parties refer to Indiana Classical as Valor. We, however, will use the name Indiana Classical as that is the name that Indiana Classical used when it filed its complaint and that is the name that appears in the case caption below and in this appeal.

[2] A charter school is defined as "a public elementary school or secondary school established under this article that: (1) is nonsectarian and nonreligious; and (2) operates under a charter. I.C. § 20-24-1-4. We note that the legislature amended this statute in the 2024 legislative session, but the addition to the statute does not apply to this appeal.

($1.00). In 2011, the legislature first included the statutory language that would require a school corporation, under certain circumstances, to either lease a school building to the charter school for one dollar per year or to sell the school building to the charter school for one dollar. *See* I.C. § 20-26-7-1(g) (2011). The parties to this appeal refer to this statutory lease/sale provision and the requirements thereunder as "the Dollar Law." For purposes of this appeal, we will do the same.

[4] The Dollar Law statutes at issue in this appeal include the versions of INDIANA CODE §§ 20-26-7-1, 20-26-7.1-3, 20-26-7.1-4, and 20-26-7.1-9 that were in effect during the relevant time of the facts of this underlying case, which was from 2018 to 2022. In 2018, the Dollar Law requirements were located in Chapter 7 of INDIANA CODE 20-26, which is titled "Property and Eminent Domain." In 2019, the legislature amended the Dollar Law requirements and placed the relevant part of them that are at issue in this appeal in Chapter 7.1 of INDIANA CODE 20-26, which is titled "Transfers of Vacant School Buildings to Charter Schools." The legislature also amended the Dollar Law statutes within Chapter 7.1 of INDIANA CODE 20-26 in 2021. As we set forth the relevant facts of the underlying case in this appeal, we will also set forth the relevant versions of the

Dollar Law statutes that were in effect at that time between June 2018 and 2022.[3]

[5] Indiana Classical is a charter school. In 2018, Orchard Park Elementary, which is a school in the Carmel Clay school system, was located on Orchard Park Drive in Hamilton County. The Orchard Park Elementary school building ("the School Building") measures over 90,000 square feet.

[6] On June 25, 2018, Carmel Clay voted ("the June 2018 vote") to approve its administration's recommendation and authorized the construction of a new Orchard Park Elementary school building at a new location on Clay Center Road ("the New School Building"). Carmel Clay also approved the recommendation that no students be moved from the School Building for three years and that the move-in date for the New School Building would be in June or July 2021, which was just prior to the 2021-22 school year.

[7] In June 2018, the relevant statute of the Dollar Law was INDIANA CODE § 20-26-7-1. At that time, subsection (f) of this statute ("the Notice Provision") provided that "[n]ot later than August 1 each calendar year, each governing

[3] We note that the legislature further amended some of the Dollar Law statutes in 2023 and again in this current 2024 legislative session. *See generally* P.L. 36-2024 (2024) (effective July 1, 2024). Thus, we find it necessary to point out that our review of the majority of the relevant Dollar Law statutes as they existed between 2018 and 2022 do not contain the same language that currently exists in the 2023 amendments or as contained in the 2024 amendments. Accordingly, our interpretation of the Dollar Law statutes as they existed between 2018 and 2022 apply solely to the facts of this appeal.

body[4] shall *inform* the [D]epartment [of Education ("Department of Education")] if a school building that was previously used for classroom instruction *is closed, unused, or unoccupied*." I.C. § 20-26-7-1(f) (2018) (emphases added). That subsection also required the Department of Education to "maintain a list of closed, unused, or unoccupied school buildings" and post that list on its website. *Id.*

[8] Furthermore, subsection (e) of INDIANA CODE § 20-26-7-1 ("the Make Available Provision") provided, in relevant part, that:

> . . . a governing body shall *make available* for lease or purchase to any charter school any school building . . . that:
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> (1) either:
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> (A) *is not used in whole or in part for classroom instruction* at the time the charter school seeks to lease the building; or
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> (B) appears on the list compiled by the department under subsection (f); and
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> (2) was previously used for classroom instruction;
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> in order for the charter school to conduct classroom instruction.

I.C. § 20-26-7-1(e) (2018) (emphases added).

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[4] A governing body is defined as: "(1) a board of school commissioners; (2) a metropolitan board of education; (3) a board of trustees; or (4) any other board or commission charged by law with the responsibility of administering the affairs of a school corporation." I.C. § 20-18-2-5 (format altered).

[9] Lastly, subsection (h) of INDIANA CODE § 20-26-7-1 ("the One Dollar Provision") provided, in relevant part, that "[i]f a charter school wishe[d] to use a school building on the list created under subsection (f), the charter school shall send a letter of intent to the [D]epartment [of Education]" and, thereafter, "the school corporation that owns the school building shall lease the school building to the charter school for one dollar ($1) per year for as long as the charter school uses the school building for classroom instruction . . . or sell the school building to the charter school for one dollar ($1)." I.C. § 20-26-7-1(h) (2018).

[10] During the 2019 legislative session, the Indiana legislature amended the Dollar Law, with an effective date of May 5, 2019. Relevant to this appeal, the legislature removed the Notice Provision, the Make Available Provision, and the One Dollar Provision from INDIANA CODE § 20-26-7-1 and placed them into a new chapter, Chapter 7.1 of INDIANA CODE 20-26. Specifically, the legislature placed the Notice Provision in INDIANA CODE § 20-26-7.1-4(a)(1), the Make Available Provision in INDIANA CODE § 20-26-7.1-3(a), and the One Dollar Provision in INDIANA CODE § 20-26-7.1-4(c).

[11] Moreover, the legislature amended the relevant language of these provisions. Specifically, the legislature amended the language of the Notice Provision in INDIANA CODE § 20-26-7.1-4, in relevant part, as follows:

> Not later than ten (10) days after passing a resolution or taking other official action *to close, no longer use, or no longer occupy* a school building that was previously used for classroom

> instruction, the governing body shall . . . *notify* the [D]epartment [of Education] of the official action and the effective date that the school building *will be closed, no longer used, or no longer occupied*[.]

I.C. § 20-26-7.1-4(a)(1) (2019) (emphases added).

[12] Additionally, the legislature amended the language of the Make Available Provision in INDIANA CODE § 20-26-7.1-3, in relevant part, as follows:

> . . . a governing body shall *make available* for lease or purchase to any charter school any school building . . . that:
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> (1) *is vacant or unused*; and
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> (2) was previously used for classroom instruction;
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> in order for the charter school to conduct kindergarten through grade 12 classroom instruction.

I.C. § 20-26-7.1-3(a) (2019) (emphases added).

[13] The legislature also amended the One Dollar Provision in INDIANA CODE § 20-26-7.1-4(c) to provide that a "school corporation shall lease the school building to a charter school for one dollar ($1) per year for as long as the charter school uses the school building for classroom instruction . . . or sell the school building for one dollar ($1), *if* the charter school" complied with various requirements in the timeframe set out by the statute. I.C. § 20-26-7.1-4(c) (2019) (emphasis added). Among these requirements, the charter school was required to: (1) submit to the Department of Education, "[w]ithin thirty (30) days of receiving the department's notice under subsection (b), . . . a preliminary request to purchase or lease the school building[;]" and (2) submit to the school

corporation, "within ninety (90) days of receiving the department's notice under subsection (b), . . . [t]he name of the charter school that is interested in leasing or purchasing the *vacant or unused* school building" and the "time frame . . . from the date that the school building *is to be closed, no longer used, or no longer occupied*, in which the charter school intends to begin providing classroom instruction in the *vacant or unused* school building." I.C. § 20-26-7.1-4(c)(1),(2) (2019) (emphases added).[5]

[14] Additionally, in its 2019 amendments, the legislature included a section, entitled "Failure to Comply," in Chapter 7.1 of INDIANA CODE 20-26 to address a school corporation's failure to comply with the requirements of the Dollar Law. In INDIANA CODE § 20-26-7.1-9 ("the Failure to Comply Provision"), the legislature explained that "[i]f a school corporation does not comply with the requirements provided in this chapter, the school corporation shall submit any proceeds from the sale of the *vacant* school building to the state board to provide grants under the charter school and innovation grant program under IC 20-24-13." I.C. § 20-26-7.1-9 (2019) (emphasis added).

[15] Thereafter, in 2021, the legislature again amended some sections of the Dollar Law in Chapter 7.1 of INDIANA CODE 20-26. These amendments related to procedural requirements. The Make Available Provision in INDIANA CODE §

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[5] We note that, in its 2023 amendments, the legislature moved the One Dollar Provision to subsection (e) of INDIANA CODE § 20-26-7.1-4. *See* I.C. § 2-26-7.1-4(e) (2023). Additionally, in its 2024 amendments, the legislature moved the One Dollar Provision to subsection (l) of INDIANA CODE § 20-26-7.1-4. *See* P.L. 36-2024, Section 5 (2024) (effective July 1, 2024).

20-26-7.1-3(a) continued to provide that a governing body shall make available for lease or purchase to any charter school any school building that is "vacant or unused[,]" but the legislature added a requirement, which "applie[d] after June 30, 2021[,]" that a "governing body shall obtain a certification from the attorney general's office under section 8.5 of this chapter." I.C. § 20-26-7.1-3(a)(1) (2021). Section 8.5, which became effective on April 29, 2021 but made the section applicable after June 30, 2021, provided, in part, that:

> [I]f a governing body passes a resolution to sell, exchange, lease, demolish, hold without operation, or dispose of a school building, the governing body of the school corporation must receive a certification from the attorney general to ensure that the governing body is in compliance with the requirements of this chapter. The governing body of the school corporation shall submit an application, not later than fifteen (15) days after the governing body passes the resolution described in this subsection, to the attorney general in a manner prescribed by the attorney general. The attorney general shall approve or deny a certification within thirty (30) days of the date the request for certification is received by the attorney general. . . .

I.C. § 20-26-7.1-8.5(b) (2021). Section 8.5 also required the Indiana Attorney General's Office ("the AG's Office") to submit its certification findings to the Department of Education, who would then post those findings on the department's website. I.C. § 20-26-7.1-8.5(d) (2021).[6]

[6] We note that the legislature has since repealed INDIANA CODE § 20-26-7.1-8.5 in 2023, with an effective date of July 1, 2023.

[16] An additional amendment that the legislature made in 2021 was an amendment to the Failure to Comply Provision in INDIANA CODE § 20-26-7.1-9. The amended Section 9, which became effective on April 29, 2021, provided, in part, as follows:

> (a) The *attorney general shall investigate complaints that a school corporation has not complied with the requirements under this chapter* if the complaint is filed within one (1) year of the date in which the governing body is alleged to have taken an official action that does not comply with this chapter. . . . *Upon completion of the investigation, the attorney general shall issue findings indicating whether the complaint is either substantiated or unsubstantiated*.
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> (b) Subject to subsection (d), in the event that a complaint is substantiated, *the attorney general*, in consultation with the department and state board, *is authorized to take any action necessary to remedy a substantiated complaint*, which may include actions to be performed by the state board or the department to ensure compliance of a school corporation under this section.
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> (d) If a school corporation does not comply with the requirements to sell a *vacant* school building provided in this chapter *as determined by the attorney general under subsection (a)*, the school corporation shall submit any proceeds from the sale of the *vacant* school building to the state board, which shall be distributed equally between each charter school located in the attendance area of the school corporation. If no charter schools are located in the attendance area, the state board must use the proceeds to provide grants under the charter school and innovation grant program under IC 20-24-13. *The attorney general is authorized to initiate any legal action necessary to ensure compliance with this section*.

I.C. § 20-26-7.1-9 (2021) (emphases added).[7]

[17] In late May 2021, the students at Orchard Park Elementary finished their 2020-21 school year. The Orchard Park Elementary administrative and custodial staff continued to use the School Building until August 2021. Additionally, at the end of that 2020-21 school year, Carmel Clay "repurposed" the School Building to use it as "a vital source of badly needed storage space" for the school district and as "swing space" for staff and storage while other buildings in the school district underwent renovations. (App. Vol. 2 at 187).

[18] For example, during Summer 2021, the school district started a multi-year, multi-million-dollar renovation of Carmel High School's Performing Arts Department ("the Performing Arts Department"), and the Performing Arts Department then used approximately 15,000 square feet of space at the School Building to store scenery, sets, props, technical and lighting equipment, and band equipment and uniforms. The school district's special education department also used the School Building to store equipment used for special needs students. Additionally, six other Carmel Clay schools used the School Building for storage purposes.

[7] We note that this version of the Failure to Comply Provision in INDIANA CODE § 20-26-7.1-9, which applies to the facts of this appeal, was in effect from April 29, 2021 to June 30, 2023. The legislature subsequently amended INDIANA CODE § 20-26-7.1-9 in 2023 (effective July 1, 2023) and again in the 2024 legislative session (effective July 1, 2024).

[19] During Summer 2021, the 2021-22 school year, and Summer 2022, Carmel Clay also used the School Building for school-specific training sessions by the school district's school resource officers ("SROs") and other Carmel Police Department ("CPD") officers. For example, these officers used the School Building for active shooter training, other "emergency response scenario training[,]"and K-9 Team training to prepare the team to conduct drug sweeps and sniff for explosives. (App. Vol. 3 at 57). Carmel Clay also used the School Building during the 2021-22 school year as office space for members of the school district's information technology ("IT") staff. The IT department also used a conference room in the School Building to host monthly staff meetings and weekly cybersecurity training sessions.

[20] On June 14, 2021, Carmel Clay passed a resolution ("the June 2021 resolution"), in which it noted that Carmel Clay "desire[d] to explore renovation of [the School Building] for future shared community use in compliance with Ind. Code § 20-26-7.1-3(b)[.]"[8] (App. Vol. 2 at 184). Carmel Clay also noted that "Ind. Code § 36-10-3-11[9] authorize[d] a board of parks and recreation to contract for joint use of facilities for the operation of park and

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[8] At the time of the June 2021 resolution, INDIANA CODE § 20-26-7.1-3(b) provided, in part, that "[a] governing body that vacates a school building in order to . . . renovate the school building for future use by the school corporation" is "not required to comply with . . . chapter [7.1]" of INDIANA CODE § 20-26. I.C. § 20-26-7.1-3(b)(1)(A) (2021).

[9] INDIANA CODE § 36-10-3-11 provides, in part, that a parks and recreation "board may . . . contract with . . . another board . . . or a school corporation for the use of park and recreation facilities or services, and a township or school corporation may contract with the board for the use of park and recreation facilities or services[.]" I.C. § 36-10-3-11(a)(3).

recreation programs and related services" and "allow[ed] a school corporation to contract with a board of parks and recreation for facilities and services." (App. Vol. 2 at 184). Additionally in the resolution, Carmel Clay noted that it "desire[d] to explore a shared use agreement with Carmel Clay Parks and Recreation to enhance the utility of the [School Building] for shared use by the general public and allow for [Carmel Clay] to use the [School Building]." (App. Vol. 2 at 184). Carmel Clay "authorize[d] the Superintendent . . . to take any and all actions necessary to address the Property for future use in compliance with Ind. Code § 20-26-7.1-3(b) and to explore a shared use agreement with Carmel Clay Parks and Recreation pursuant to Ind. Code § 36-10-3-11." (App. Vol. 2 at 184).[10]

[21] On June 21, 2021, counsel for Carmel Clay contacted the AG's Office to inquire about the impact of the June 2021 resolution on its requirements under the Dollar Law. The AG's Office confirmed that the June 2021 resolution's directive to explore a joint use of the School Building did not trigger any further action by Carmel Clay.

[22] In December 2021, Indiana Classical filed a school complaint with the AG's Office.[11] Indiana Classical alleged that Carmel Clay had failed to comply with the notice requirements of INDIANA CODE Chapter 20-26-7.1 regarding the

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[10] Ultimately, no action came of this decision to explore a shared use agreement.

[11] The filing of Indiana Classical's complaint would have been consistent with the requirement set out in INDIANA CODE § 20-26-7.1-9, which was effective on April 29, 2021.

transfer of vacant school buildings to charter schools. Specifically, Indiana Classical alleged that Carmel Clay had failed to comply with the Notice Provision in INDIANA CODE § 20-26-7.1-4 when it failed to file an "Unused Building Notification" with the Department of Education within ten days after Carmel Clay had entered the June 2018 vote. (App. Vol. 2 at 62). Indiana Classical asserted that it "appear[ed]" that Carmel Clay had not "requested a certification" from the AG's Office. (App. Vol. 3 at 62). Indiana Classical also alleged that the School Building "had been vacant" for approximately seven months without a corresponding statutory notice to the Department of Education. (App. Vol. 3 at 62). The AG's Office's investigated the allegations and concluded that allegations were "unsubstantiated." (App. Vol. 3 at 61). Additionally, the AG's Office determined that "Carmel Clay Schools [wa]s not in violation of Ind. Code ch. 20-26-7.1 with [the School Building] as it [wa]s still in use and occupied by the district. The building [wa]s not vacant upon inspection." (App. Vol. 3 at 62).

[23] In January 2022, counsel for Indiana Classical sent a letter to the superintendent of the Carmel Clay Schools. Indiana Classical stated that it desired to purchase the School Building and that it sought "to invoke its rights under IC [§] 20-26-7.1-4." (App. Vol. 3 at 63). Indiana Classical also alleged that Carmel Clay had failed to submit notice to the Indiana Department of Education ("Department of Education") "as required by IC [§] 20-26-7.1-4(a)(1)" to inform the Department of Education that Carmel Clay "had taken action to close, no longer use, or no longer occupy [the School Building]."

(App. Vol. 3 at 63). Indiana Classical stated that it was "requesting proof that [Carmel Clay] [had] in fact notified [the Department of Education] of its intent to abandon [the School Building]." (App. Vol. 3 at 63). Additionally, Indiana Classical stated that if Carmel Clay did not reply within ten days, then Indiana Classical would "assume that the notifications required above were not made" and that it "may seek to enforce its rights and require [Carmel Clay] and other entities to provide the [S]chool [Building] for use by [Indiana Classical] as a charter school." (App. Vol. 3 at 63).

[24] A few months later, in April 2022, Indiana Classical filed a complaint with the trial court. Indiana Classical sought a declaratory judgment that Carmel Clay had failed to comply with the Notice Provision of INDIANA CODE § 20-26-7.1-4. Indiana Classical acknowledged Carmel Clay's "continued use" of the School Building but stated that it was "for non-instructional use[.]" (App. Vol. 2 at 17). Indiana Classical alleged that Carmel Clay's "decision to close" the School Building in June 2018 and its act of "no longer using the [S]chool [Building] for classes" in May 2021 had "triggered the requirements of Ind. Code § 20-26-7.1-4 to offer" the School Building for sale to Indiana Classical. (App. Vol. 2 at 15).

[25] Thereafter, in July 2022, Indiana Classical filed a motion for summary judgment on its declaratory judgment complaint. Indiana Classical argued that Carmel Clay had failed to comply with the Notice Provision of INDIANA CODE § 20-26-7.1-4, and it sought to have the trial court enforce the provision by issuing "an order directing [Carmel Clay] to sell or lease [the School Building]

to [Indiana Classical.]" (App. Vol. 2 at 59). Specifically, Indiana Classical argued that the "plain language" of the Notice Provision in INDIANA CODE § 20-26-7.1-4 required Carmel Clay to "offer" the School Building to Indiana Classical and to provide notice to the Department of Education that the School Building would be or was "close[d], unused, or unoccupied" and no longer used for classroom instruction. (App. Vol. 2 at 55). Indiana Classical argued that Carmel Clay had triggered these requirements when it had taken various "official actions[,]" including the June 2018 vote and the May 2021 act of "clos[ing] [the school] doors" to classroom instruction. (App. Vol. 2 at 55). Additionally, Indiana Classical argued that even if Carmel Clay had not triggered the requirements of INDIANA CODE § 20-26-7.1-4, it had "repeatedly expressed an intent to subvert both the letter and spirit of the law" when it had passed the June 2021 resolution "to explore non-academic uses" of the School Building. (App. Vol. 2 at 55, 56). Indiana Classical acknowledged that "[t]he partnership between Carmel Schools and Carmel Parks never materialized[.]" (App. Vol. 2 at 53).

[26] For its designated evidence, Indiana Classical included four newspaper articles and the minutes from the two Carmel Clay School Board meetings (June 25, 2018 and June 14, 2021). Within Indiana Classical's summary judgment brief, it included two footnotes with hyperlinks to online videos (one to Facebook, the other to YouTube) and a footnote with a hyperlink to a Carmel governmental website.

[27] Thereafter, Carmel Clay moved to strike the newspaper articles from Indiana Classical's designated evidence, the hyperlinks that Indiana Classical had failed to designate, and any references or quotations to those articles or hyperlinks contained in Indiana Classical's summary judgment brief. The trial court granted Carmel Clay's motion to strike.

[28] Carmel Clay also filed a cross-motion for summary judgment and argued that it had not triggered any requirements under the Dollar Law in INDIANA CODE 20-26 Chapter 7.1. Specifically, Carmel Clay argued that none of its actions had triggered the Notice Provision in INDIANA CODE § 20-26-7.1-4 when a school building is "closed, unused, or unoccupied" because the School Building was still being used by Carmel Clay. (App. Vol. 2 at 144). Additionally, Carmel Clay argued that it had not been required to "make available" the School Building under the Make Available Provision in INDIANA CODE § 20-26-7.1-3 because the School Building had not been and was not currently "vacant or unused." (App. Vol. 2 at 140). Carmel Clay asserted that Indiana Classical's argument that Carmel Clay should have made the School Building available to Indiana Classical because the School Building was no longer used for classroom instruction was a meritless argument. Carmel Clay reasoned that "[t]he legislature replaced the 'no longer used for classroom instruction' language with 'vacant and unused'" in 2019 and that "[t]his amendment clearly demonstrated the legislature's intent to allow school districts to immediately re-purpose school buildings to meet the district's needs other than classroom instruction—

an option that [Carmel Clay] had implemented for the [School Building]." (App. Vol. 2 at 144).

[29] Carmel Clay asserted that its "undisputed designated evidence" showed that the School Building had been used and continued to be used for "flex storage and office space, hous[ing] administrative and technology personnel, and offer[ing] a valuable training facility for School Resources Officers to conduct active shooter drills and other training exercises specific to K-12 safety." (App. Vol. 2 at 143). Carmel Clay also pointed out that after Carmel Clay had contacted the AG's Office in June 2021 to confirm Carmel Clay's compliance with the requirements of the Dollar Law and after Indiana Classical had filed a complaint with the AG's Office in December 2021, the AG's Office had confirmed Carmel Clay's compliance and had determined that Indiana Classical's allegations of Dollar Law violations were unsubstantiated. To show that Carmel Clay had continued to use the School Building after May 2021 for storage and administrative and training purposes, Carmel Clay designated several affidavits from Carmel Clay district and school employees and numerous photographs. Carmel Clay also designated evidence to show that it would have been required to incur approximately $26,000 per month in outside storage facility fees since June 2021 if it had not been able to continue to use the School Building.

[30] The trial court held a summary judgment hearing in November 2022. In January 2023, the trial court issued an order on the parties' cross-motions for summary judgment. The trial court granted Carmel Clay's summary judgment

motion and denied Indiana Classical's summary judgment motion. In its conclusions of law, the trial court determined, in relevant part, as follows:

> 9. Since at least 2011, the Dollar Law has required public school districts to offer their unused school buildings to charter schools for a nominal fee before otherwise disposing of them. Prior to 2019, the Dollar Law applied to any school buildings that w[ere] no longer "used in whole or in part for classroom instruction." *See* Ind. Code § 20-26-7-1(e) (2018). That version of the Dollar Law also required notification to [the Department of Education] when a school building was closed or no longer used for classroom instruction. *Id.*
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> 10. In 2019, the General Assembly deleted the "classroom instruction" language and replaced it with "vacant and unused." *See* Ind. Code § 20-26-7.1-3. The Dollar Law now applies only to school buildings that are "vacant and unused." The General Assembly also added a subsection requiring notification to [the Department of Education] (which would in turn notify interested charter schools) within ten (10) days of any "resolution or other official action to close, no longer use, or no longer occupy the school building." Ind. Code § 20-26-7.1-4.
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> 15. Having considered the[] [parties'] arguments and the parties' admissible designated evidence, the Court finds that . . . Ind. Code chapter 20-26-7.1, as applied to the undisputed material facts, is ambiguous as to what constitutes a school corporation's "use" of a school building (if not for classroom instruction), and in turn, the threshold at which a building is deemed "unused."
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> 17. As noted above, Ind. Code § 20-26-7.1-3 previously included language requiring school corporations to notify interested charter schools of available buildings "not used in whole or in

part for classroom instruction." The General Assembly amended the statute in 2019 to limit this notice requirement to apply only to "vacant or unused" buildings.

* * * * *

19. By amending the statutory language to limit the notice requirement to a more specific set of buildings, the Court finds that the General Assembly intended to narrow the applicability of the statute.

20. The parties' admissible designated evidence reflects that the [School Building] was repurposed and has been continuously used for storage, office, and training space for the direct benefit of the school corporation.

21. The Court concludes that [the School Building] is not "vacant or unused" under Indiana Code section 20-26-7.1-3, and accordingly [Carmel Clay] was not required to make the [School Building] available to interested charter schools, or to notify the [Department of Education] that the building was available.

22. This ambiguity concerning the meaning of "use" within the Dollar Law raises questions regarding the extent to which a building [sic] must "use" a building before triggering the notice requirements. This Court need not make that determination as its decision is limited to the facts before it. Here, the Court concludes that [the] school corporation's "use" of the [the School Building] is not pretextual or *de minimis* and did not trigger the requirements under the Dollar Law.

(App. Vol. 3 at 111-14).

[31] Thereafter, Indiana Classical filed a motion to correct error. The trial court denied Indiana Classical's motion to correct error.

[32] Indiana Classical now appeals.

Decision

[33] Indiana Classical argues that the trial court erred by granting summary judgment to Carmel Clay. We disagree.

[34] Our standard of review for summary judgment cases is well-settled. When we review a trial court's grant of a motion for summary judgment, our standard of review is the same as it is for the trial court. *Knighten v. E. Chi. Hous. Auth.,* 45 N.E.3d 788, 791 (Ind. 2015). Summary judgment is appropriate only where the moving party has shown that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. *Hughley v. State*, 15 N.E.3d 1000, 1003 (Ind. 2014). "On review, we may affirm a grant of summary judgment on any grounds supported by the designated evidence." *Chmiel v. US Bank Nat'l Ass'n*, 109 N.E.3d 398, 407 (Ind. Ct. App. 2018).

[35] Here, Indiana Classical filed a civil action, seeking to have the trial court determine that Carmel Clay had failed to comply with various statutes of the Dollar Law and asking the trial court to enforce those statutes of the Dollar Law against Carmel Clay. The parties and the trial court delved into the interpretation of the Notice Provision and the Make Available Provision within the Dollar Law.[12] The trial court interpreted the relevant statutes and

[12] We note, however, that while the parties and the trial court delved into the interpretation of the Notice Provision and the Make Available Provision within the Dollar Law, they did not address any potential effect of the Failure to Comply Provision or whether the statutory provisions within the Dollar Law in effect at the relevant time in this underlying case created or conferred a private right of action for Indiana Classical to file such a civil action in April 2022.

concluded, in relevant part, that "[the School Building] [wa]s not 'vacant or unused' under Indiana Code section 20-26-7.1-3, and accordingly [Carmel Clay] was not required to make the [School Building] available to interested charter schools [under the Make Available Provision], or to notify the [Department of Education] that the building was available [under the Notice Provision]." (App. Vol. 3 at 114).

The legislature's 2021 amendment to the Failure to Comply Provision in INDIANA CODE § 20-26-7.1-9, which was effective from April 29, 2021 to June 30, 2023, provided that a charter school that alleged that a school corporation had failed to comply with the Dollar Law statutes was required to file a complaint with the AG's Office, who would in turn investigate any non-compliance complaint and then issue findings to indicate whether the complaint was substantiated or unsubstantiated. I.C. § 20-26-7.1-9(a) (2019). If a complaint was substantiated, the AG's Office was "authorized to take any action necessary to remedy a substantiated complaint," which . . . include[d] actions to be performed by the state board or the department to ensure compliance of a school corporation under this section." I.C. § 20-26-7.1-9(b) (2019). The AG's Office was also "authorized to initiate any legal action necessary to ensure compliance with [the Failure to Comply Provision in INDIANA CODE § 20-26-7.1-9]."

"When a civil cause of action is premised upon the violation of a duty imposed by statute, the initial question to be determined by the court is whether the statute in question confers a private right of action." *HealthPort Techs., LLC v. Garrison Law Firm, LLC*, 51 N.E.3d 1236, 1238-39 (Ind. Ct. App. 2016), *trans. denied*. "The determination of whether a civil cause of action exists begins with an examination of the legislative intent[,]" which "includes discerning whether the statute is designed to protect the general public and whether the statutory scheme contains an enforcement mechanism or remedies for violation of the duty." *Id.* at 1239. *See also Doe #1 v. Indiana Dep't of Child Servs.*, 81 N.E.3d 199, 202 (Ind. 2017) (explaining that our Courts "will not infer a private right of action when the statute (1) primarily protects the public at large and (2) contains an independent enforcement mechanism"). "As a general rule, a private party may not enforce rights under a statute designed to protect the public in general that contains a comprehensive enforcement mechanism." *HealthPort*, 51 N.E.3d at 1239. "When a statute is designed mainly for public benefit, it implies no right of action; incidental benefits to a private party make no difference." *Doe #1*, 81 N.E.3d at 202.

Neither the parties nor the trial court discussed the effect or application of Failure to Comply Provision in INDIANA CODE § 20-26-7.1-9 to the underlying case or the question of whether the statutory provisions within the Dollar Law in effect at the relevant time in this underlying case conferred a private right of action to Indiana Classical. Accordingly, our Court will also not address it, and we will focus on the parties' arguments regarding whether the trial court properly interpreted the relevant versions of the Make Available Provision and the Notice Provision within the Dollar Law.

[36] "The interpretation of a statute is a question of law, which we review de novo." *Serv. Steel Warehouse Co., L.P. v. United States Steel Corp.*, 182 N.E.3d 840, 842 (Ind. 2022). "When presented with a question of statutory construction, we first determine whether the legislature has spoken clearly and unambiguously on the point in question." *Util. Ctr., Inc. v. City of Fort Wayne*, 985 N.E.2d 731, 734 (Ind. 2013) (cleaned up). "If so, our task is relatively simple: we need not delve into legislative intent but must give effect to the plain and ordinary meaning of the language." *Id.* (cleaned up). "As we interpret [a] statute, we are mindful of both what it does say and what it does not say." *City of Lawrence Utilities Serv. Bd. v. Curry*, 68 N.E.3d 581, 585 (Ind. 2017) (cleaned up).

[37] We have thoroughly reviewed the specific versions of the Notice Provision and the Make Available Provision as applicable to the facts of this case, which was from 2018 to 2022. Under the plain language of those applicable statutory provisions, as set out in detail in the facts above, Carmel Clay was neither required to make available the School Building to Indiana Classical nor to provide notice to the Department of Education.

[38] In June 2018, when Carmel Clay voted to authorize the construction of the New School Building and approved the plan to keep students in the School Building until June 2021, the Notice Provision and the Make Available Provision of the Dollar Law were contained in INDIANA CODE § 20-26-7-1 (2018). At that time, the Notice Provision provided that "[n]ot later than August 1 each calendar year, each governing body shall inform the [D]epartment [of Education] if a school building that was previously used for

classroom instruction *is closed, unused, or unoccupied*." I.C. § 20-26-7-1(f) (2018) (emphasis added). The Make Available Provision provided, in relevant part, that . . . a governing body shall make available for lease or purchase to any charter school any school building . . . that . . . *is not used in whole or in part for classroom instruction* . . . and . . . was previously used for classroom instruction[.]" I.C. § 20-26-7-1(e) (2018) (emphasis added). Thus, in June 2018, when the School Building was not closed, unused or unoccupied and was being used for classroom instruction, the relevant statutes did not require Carmel Clay to take any action under the Notice Provision or the Make Available Provision of the Dollar Law.

[39] Additionally, the applicable versions of the Notice Provision and the Make Available Provision from 2019 to 2022, which were contained in Chapter 7.1 of INDIANA CODE 20-26, also did not require any action by Carmel Clay. At that time, the Notice Provision provided, in part, that a governing body was required to notify the Department of Education within "ten (10) days after passing a resolution or taking other official action *to close, no longer use, or no longer occupy* a school building that was previously used for classroom instruction[.]" I.C. § 20-26-7.1-4(a)(1) (2019, 2021) (emphasis added). The Make Available Provision provided, in part, that a governing body was required to make available for lease or purchase to any charter school any school building that "*is vacant or unused . . .* and was previously used for classroom instruction[.]" I.C. § 20-26-7.1-3(a) (2019, 2021) (emphasis added). The undisputed designated evidence reveals that during this 2019 to 2022 period, the

School Building was not vacant or unused and was still being used and occupied by Carmel Clay. Accordingly, the relevant statutes did not require Carmel Clay to take any action under the Notice Provision or the Make Available Provision of the Dollar Law.

[40] Based on our interpretation of these applicable statutory provisions of the Dollar Law between 2018 to 2022 and the facts as set out in the relevant designated evidence, we agree with the trial court that these applicable statutory provisions of the Dollar Law did not require any action by Carmel Clay. Therefore, we conclude that the trial court did not err by granting summary judgment to Carmel Clay, and we affirm the trial court's judgment.

[41] Affirmed.

Vaidik, J., and Mathias, J., concur.

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