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**IN THE
INDIANA TAX COURT**

CRAWFORDSVILLE COMMUNITY)
SCHOOL CORPORATION,)
)
Petitioner,)
)
v.)
)
CAROLE LYNN BARTON, AUDITOR OF)
MONTGOMERY COUNTY, INDIANA;)
MARGARET SUE HOWELL, TREASURER)
OF MONTGOMERY COUNTY, INDIANA;)
AND INDIANA DEPARTMENT OF LOCAL)
GOVERNMENT FINANCE,)
)
Respondents.)

Cause No. 49T10-0502-TA-15

ORDER ON RESPONDENT INDIANA DEPARTMENT OF LOCAL GOVERNMENT
FINANCE'S MOTION FOR JUDGMENT ON THE PLEADINGS

NOT FOR PUBLICATION

June 23, 2005

FISHER, J.

The Crawfordsville Community School Corporation (CCSC) appeals from the final determination of the Indiana Department of Local Government Finance (DLGF)

which denied it any relief on its “Statement of Objections, Appeal of Tax Rate and Levy, and Request for Emergency Relief” (Appeal). The matter is currently before the Court on the DLGF’s motion for judgment on the pleadings.

FACTS AND PROCEDURAL HISTORY

CCSC is located entirely within Union Township, Montgomery County, Indiana. In 2003, CCSC, through its authorized officers and after the appropriate public hearings, met and fixed its budget for 2004. CCSC filed the budget with the Auditor on September 15, 2003.

On August 25, 2004, the Montgomery County Board of Tax Adjustment, after reviewing and revising CCSC’s budget, approved a \$10.8 million property tax levy for CCSC to be collected that same year.¹ The Auditor and the Treasurer subsequently issued three public notices (in a newspaper having general circulation within the county) on October 13, 20, and 27, 2004. The notices advised Montgomery County taxpayers of the tax rates to be charged on each \$100.00 of assessed valuation in order to generate the approved property tax levy.

Late in the afternoon on October 27, 2004, Montgomery County officials advised CCSC that a mathematical error had been made in determining the assessed value of taxable property in Union Township. More specifically, it was determined that the Union Township Assessor (Assessor) had overstated the assessed value of taxable property within Union Township by approximately \$75 million. As a result of this error, the property tax rates calculated by the Auditor and the Treasurer were understated. In other words, the application of the published tax rates to the actual assessed valuation

¹ The Court presumes that the levy would have been collected from the second installment of 2003’s property taxes, due in November of 2004.

within Union Township would result in an approximate \$1.2 million levy shortfall for CCSC.

On October 29, 2004, CCSC filed its Appeal with both the DLGF and the Auditor. In its Appeal, CCSC explained that due to the errors of the Assessor and the Auditor, the resulting property tax levy shortfall threatened its ability to carry out the public education duty committed to it by law.² Consequently, CCSC: 1) sought to appeal the tax rates and levies for tax revenues collectible in 2004, 2005, and 2006 because they were all premised on an erroneous assessed valuation³; 2) sought the approval of excess levies by which to avoid the anticipated shortfalls; 3) requested the correction of errors in the tax duplicates previously issued to Montgomery County taxpayers; and 4) requested emergency financial relief.

No action was taken on CCSC's Appeal until January 28, 2005, when CCSC arranged an informal meeting on the matter. On February 14, 2005, however, the DLGF communicated to CCSC that it would not conduct a hearing on CCSC's Appeal.⁴

CCSC subsequently filed this original tax appeal.⁵ On March 28, 2005, the DLGF filed a motion for judgment on the pleadings pursuant to Indiana Trial Rule 12(C).

² More specifically, CCSC indicated that "the unbilled and uncollected levy was impairing its debt service fund and school bus replacement fund, and creating a shortage of cash in other funds adversely affecting staffing and repair needs and directly impacting its ability to perform its educational duties for the school district during 2005." (Pet'r Compl. at ¶ 5.r.)

³ By this point in time, CCSC's 2005 budget (based on 2004 taxes collectible in 2005) had already been fixed and submitted for approval. Consequently, CCSC alleged that it would "likely be faced with a corresponding shortfall of tax revenue in 2005 . . . [and] 2006 that will threaten its ability to carry out the public educational duty committed to [it] by law." (Pet'r Compl. at Ex. C, ¶¶ 7-8.)

⁴ Consequently, the DLGF is deemed to have denied CCSC's Appeal.

On May 19, 2005, the Court conducted a hearing on the DLGF's motion.⁶ Additional facts will be supplied as necessary.

ANALYSIS AND OPINION

"A motion for judgment on the pleadings pursuant to Ind[iana] Trial Rule 12(C) attacks the legal sufficiency of the pleadings." *Eskew v. Cornett*, 744 N.E.2d 954, 956 (Ind. Ct. App. 2001) (citation omitted), *trans. denied*. Thus, "[a] judgment on the pleadings is proper only when there are no genuine issues of material fact and when the facts shown by the pleadings clearly establish that the non-moving party cannot in any way succeed under the facts and allegations therein." *Id.* (citation omitted).

In ruling on a motion for judgment on the pleadings, this Court looks solely at the pleadings and accepts all well-pleaded facts as true. *See id.* The moving party is deemed to have admitted those facts in favor of the non-moving party and the Court will draw all reasonable inferences in the non-moving party's favor.⁷ *Id.* In this case, the

⁵ In its complaint, CCSC alleged that the Auditor's failure to correct the errors in the tax duplicates and abstract for the 2003 tax year violated both Indiana Code § 6-1.1-15-12 and Indiana Code § 6-1.1-36-10. CCSC also alleged that the DLGF's failure to conduct a hearing on its Appeal and its failure to refer the matter to the Indiana School Property Tax Control Board (Control Board) violated Indiana Code § 6-1.1-17-16(c) and Indiana Code § 6-1.1-19-4.1(c). Consequently, CCSC asked the Court to issue an order either: 1) mandating that the levy shortfall be collected in 2005 and that the DLGF refer its Appeal to the Control Board; or 2) mandating the DLGF to conduct a hearing on its Appeal and to refer the matter to the Control Board.

⁶ On March 28, 2005, the DLGF also filed a motion to drop it as a party respondent pursuant to Indiana Trial Rule 20(B) or, in the alternative, to sever the claim asserted against it from the claims asserted against the Auditor and the Treasurer. Given the Court's holding on this matter, the DLGF's motions are denied.

⁷ While the moving party concedes the accuracy of the factual allegations in its adversary's pleadings, it does not admit assertions that constitute conclusions of law. *Eskew v. Cornett*, 744 N.E.2d 954, 957 (Ind. Ct. App. 2001) (citation omitted), *trans. denied*.

pleadings consist of CCSC's complaint and the exhibits attached thereto. See Ind. Trial Rule 7(A); Ind. Trial Rule 9.2(A). See also *Gregory and Appel, Inc. v. Duck*, 459 N.E.2d 46, 50 (Ind. Ct. App. 1984).

The DLGF advances three arguments to support its claim that CCSC cannot - in any way - succeed under the facts and allegations pleaded in its complaint. Before addressing those arguments, however, the Court will provide a synopsis of the general statutory provisions related to the fixing and reviewing of the annual budgets, tax rates, and tax levies of school corporations.

*Indiana Code § 6-1.1-17 and § 6-1.1-19*⁸

Each year, public school corporations, which are local government units, are able to pay their operating costs and expenditures from the collection of local property taxes. Consequently, each school corporation is required, annually, to formulate an estimated

⁸ Indiana Code § 6-1.1-17 addresses the general "Procedures for Fixing and Reviewing Budgets, Tax Rates, and Tax Levies" of all political subdivisions. School corporations are municipal corporations, which, in turn, are political subdivisions. See IND. CODE ANN. § 36-1-2-10 (West 2005); IND. CODE ANN. § 36-1-2-13 (West 2005). Consequently, Indiana Code § 6-1.1-17 is applicable to school corporations. Nevertheless, a school corporation's budgeting process is subject to further statutory limitations and/or guidelines. See IND. CODE ANN. § 6-1.1-19 (West 2005) (public school corporation property tax controls).

budget, a proposed tax levy,⁹ and proposed tax rates¹⁰ for the ensuing year. See IND. CODE ANN. §§ 6-1.1-17-3, -5 (West Supp. 2004-2005) (footnotes added). In order to make these formulations, the school corporation relies on a certified statement it receives from the county auditor regarding:

- (1) information concerning the assessed valuation [of property] in the [school corporation] for the next calendar year;
- (2) an estimate of taxes to be distributed to the [school corporation] during the last six (6) months of the current calendar year;
- (3) the current assessed valuation as shown on the abstract of charges;
- (4) the average growth in assessed valuation in the [school corporation] over the preceding three (3) budget years, excluding years in which a general reassessment occurs, determined according to procedures established by the [DLGF]; and
- (5) any other information at the disposal of the county auditor that might affect the assessed value used in the budget adoption process.

⁹ Property taxes in Indiana are budget-driven. See *U.S. Steel Corp. v. Lake Co. Property Tax Assessment Bd. of Appeals*, 785 N.E.2d 1209, 1212 (Ind. Tax Ct. 2003) (internal citation omitted), *rev'd in part on other grounds*, 820 N.E.2d 1237 (Ind. 2005). The term "levy," therefore, describes the aggregate dollar amount of revenue needed - and subsequently imposed through property taxes - in order to fund a given operation of local government. In this case, CCSC's "proposed tax levy" was the amount of tax revenue CCSC anticipated it needed in order to meet its budgeted expenses.

¹⁰ In a budget-driven property tax system, tax rates are merely mathematical results. *Id.* In other words, once a budget is agreed upon, the amount of the budget is divided by the taxing unit's assessed value; the resulting quotient is the tax rate. *Id.* Consequently, in this case, CCSC's proposed tax rates are those rates which, when applied against the total assessed value within its taxing boundaries, would generate its proposed tax levy.

IND. CODE ANN. § 6-1.1-17-1(a)(1)-(5) (West Supp. 2004-2005).¹¹

Once a school corporation has completed its formulations, it is required to provide taxpayers within the taxing district notice of, and an opportunity to be heard on, “(1) the estimated budget; (2) the estimated maximum permissible levy; (3) the current and proposed tax levies of each fund; and (4) the amounts of excessive levy appeals to be requested.” A.I.C. § 6-1.1-17-3(a). The school corporation must then “fix” (adopt) its budget, proposed tax levy, and proposed tax rates by September 20th. See *generally* A.I.C. § 6-1.1-17-5(a)(4). *But see also* A.I.C. § 6-1.1-17-5(a)(1)-(3); IND. CODE ANN. § 6-1.1-17-5.6 (West Supp. 2004-2005).

After a school corporation has fixed its budget, tax levy, and tax rates, taxpayers are given another opportunity to object. A.I.C. § 6-1.1-17-5(b). The budget, tax levy, and tax rates are then forwarded, via the county auditor, to the county’s board of tax adjustment. IND. CODE ANN. § 6-1.1-17-6 (West Supp. 2004-2005). On review, the county board of tax adjustment may revise or reduce (but not increase) any budget, tax levy, or tax rates. *Id.*

Once the county board of tax adjustment approves or modifies the budget, tax levy, and tax rates, they become “final.” See *generally* IND. CODE ANN. § 6-1.1-17-11 (West Supp. 2004-2005). The county auditor is subsequently required to prepare and post notice to taxpayers of the tax rates to be charged on each \$100 of assessed valuation in order to generate the levy. IND. CODE ANN. § 6-1.1-17-12 (West 2005).

¹¹ In making these certified statements, the county auditors rely on information provided to them by the township assessors and/or the county assessors. See IND. CODE ANN. § 6-1.1-5-14 (West Supp. 2004-2005).

Within ten days of the auditor's posting, the school corporation may appeal to the DLGF for an increase in its tax rate or tax levy. See IND. CODE ANN. § 6-1.1-17-15 (West Supp. 2004-2005). After conducting a public hearing thereon, the DLGF may "revise[], reduce[], or increase[] a [school corporation's] budget, tax rate, or tax levy[.]" See IND. CODE ANN. § 6-1.1-17-16(c) (West Supp. 2004-2005).

Generally, the DLGF may not "increase a [school corporation]'s budget, tax rate, or tax levy to an amount which exceeds the amount originally fixed by the [school corporation]." See A.I.C. § 6-1.1-17-16(d). There are, however, exceptions to the rule. Indeed, Indiana Code § 6-1.1-17-16(i) provides:

[s]ubject to the provisions of all applicable statutes, the [DLGF] may increase a [school corporation]'s tax levy to an amount that exceeds the amount originally fixed by the [school corporation] if the increase is:

- (1) requested in writing by the officers of the [school corporation];
- (2) either:
 - (A) based on information first obtained by the [school corporation] after the public hearing under [A.I.C. § 6-1.1-17-3]; or
 - (B) results from an inadvertent mathematical error made in determining the levy; and
- (3) published by the [school corporation] according to a notice provided by the [DLGF].

A.I.C. § 6-1.1-17-16(i). In addition, the DLGF may authorize a school corporation to collect an "excessive tax levy" when the school corporation has filed an appeal with the DLGF

[which] includes a request for emergency relief¹² for the purpose of making up a shortfall that has resulted:

(A) whenever:

(i) erroneous assessed valuation figures were provided to the school corporation;

(ii) erroneous figures were used to determine the school corporation's total property tax rate; and

(iii) the school corporation's general fund tax levy was reduced under IC 6-1.1-17-16(d); or

(B) because of the payment of refunds that resulted from appeals under this article and IC 6-1.5[.]

IND. CODE ANN. § 6-1.1-19-4.7(a),(b),(d) (West Supp. 2004-2005) (footnote added). The amount of the excessive levy may not, however, exceed “the difference between . . . the school corporation's property tax levy for a particular year as finally approved by the [DLGF] . . . [and] the school corporation's actual property tax levy for the particular year.” A.I.C. § 6-1.1-19-4.7(b).

In any event, any appeal that is filed with the DLGF under Indiana Code §§ 6-1.1-17 or 6-1.1-19 by, or in respect to, any school corporation shall be promptly delivered by the DLGF to the school property tax control board for its review and recommendation. See IND. CODE ANN. § 6-1.1-19-4.1(a),(c),(d) (West Supp. 2004-2005). Because the school property tax control board was established to assist the DLGF in deciding the

¹² In addition to appealing for an increase in a tax levy or tax rates pursuant to Indiana Code § 6-1.1-17-15, school corporations may also appeal for emergency financial relief. IND. CODE ANN. § 6-1.1-19-2(d) (West Supp. 2004-2005). See also IND. CODE ANN. § 6-1.1-19-4.5(b) (West Supp. 2004-2005) (delineating the forms of emergency financial relief available). The Court will address this type of appeal in more detail in part III of this opinion.

merits of an appeal involving a school corporation, it is authorized to conduct hearings on, and review evidence relating to, those appeals. See A.I.C. § 6-1.1-19-4.1(a),(d). The DLGF may not “revise, change, or increase the budget, tax levy, or tax rate of [a] school corporation . . . until it receives . . . the recommendation of the tax control board.” IND. CODE ANN. § 6-1.1-19-3 (West Supp. 2004-2005).

I.

In its Appeal, CCSC sought “[the] approval of excess levies [by] which to avoid anticipated shortfalls.” (See Pet’r Compl. at Ex. C, ¶ b.) The DLGF argues, however, that it “is powerless to review [CCSC]’s request.” ([DLGF’s] Br. on its Mot. for J. on the Pleadings (hereinafter DLGF Br.) at 10.) More specifically, the DLGF argues that before it can approve the excess levy under Indiana Code § 6-1.1-17-16(i), Indiana Code § 6-1.1-17-16(i)(3) requires CCSC to have held a public hearing on its excess levy request before September 20, 2003, in accordance with Indiana Code § 6-1.1-17-3(a). (See DLGF Br. at 9-10; Hr’g Tr. at 14.) In turn, the DLGF asserts that because CCSC did not know about the error (and therefore did not request the excess levy) until October 27, 2004, “[i]t couldn’t very well have held a [timely] hearing[.]” (Hr’g Tr. at 14.) The DLGF is incorrect for several reasons.

First and foremost, Indiana Code § 6-1.1-17-16(i)(3) merely requires a tax levy increase to be “published by the [school corporation] according to a notice provided by the [DLGF].” A.I.C. § 6-1.1-17-16(i)(3). The DLGF, however, wants the Court to read the statute as not only requiring the school corporation to publish notice of the tax levy increase, but to conduct a hearing thereon as well. That requirement is not in the statute. *But see* A.I.C. § 6-1.1-17-16(c) (stating that when the DLGF receives an appeal

to increase a tax levy, the DLGF must conduct a public hearing thereon). “When the language of a statute is plain and unambiguous, the court has no power to construe the statute for the purpose of limiting or extending its operation.” *F.A. Wilhelm Constr. Co. v. Indiana Dep’t of State Revenue*, 586 N.E.2d 953, 955 (Ind. Tax Ct. 1992) (quoting *C & C Oil Co. v. Indiana Dep’t of State Revenue*, 570 N.E.2d 1376, 1380 (Ind. Tax Ct. 1991)).

Second, as explained earlier, school corporations must fix their budgets, tax levies, and tax rates by September 20th. Prior to doing so, they must provide taxpayers notice of, and an opportunity to be heard on, “(1) the estimated budget; (2) the estimated maximum permissible levy; (3) the current and proposed tax levies of each fund; and (4) *the amounts of excessive levy appeals to be requested.*” A.I.C. § 6-1.1-17-3(a)(1)-(4) (emphasis added). The DLGF has attempted to convince the Court that the hearing it alleges is required under Indiana Code § 6-1.1-17-16(i)(3) is the same hearing that is required under Indiana Code § 6-1.1-17-3(a)(4). (See DLGF Br. at 9-10.) The DLGF’s attempt completely ignores the fact, however, that Indiana Code § 6-1.1-17-16(i)(2)(A) allows for a tax levy increase when the increase is “based on information first obtained by the political subdivision *after the public hearing under [A.I.C § 6-1.1-17-3].*” A.I.C. § 6-1.1-17-16(i)(2)(A) (emphasis added). Consequently, the hearing conducted as to “the amounts of excessive levy appeals to be requested” under Indiana Code § 6-1.1-17-3(a)(4) could not possibly be the same hearing the DLGF alleges must be conducted pursuant to Indiana Code § 6-1.1-17-16(i)(3).

When the DLGF received CCSC’s Appeal, it was required to both conduct a hearing thereon and to refer the matter to the school property tax control board for its

review and recommendation. See A.I.C. § 6-1.1-17-16(c); A.I.C. § 6-1.1-19-4.1(c). Thus, the DLGF has not convinced the Court that it was “powerless” to review CCSC’s Appeal. Accordingly, with respect this issue, the DLGF’s motion for judgment on the pleadings is denied.

II.

Next, the DLGF maintains that the doctrine of laches bars CCSC from appealing its 2004 budget. “Laches’ is an equitable defense [that] may be raised to stop a person from asserting a claim that he would normally be entitled to assert.” *Storm, Inc. v. Indiana Dep’t of State Revenue*, 663 N.E.2d 552, 557 (Ind. Tax Ct.1996) (citation omitted). “The rationale behind the doctrine of laches is that a person who, for an unreasonable length of time, has neglected to assert a claim against another waives the right to assert his claim when his delay prejudices the person against whom he would assert it.” *Id.* Thus, before the Court bars a claim due to laches, it must find the presence of three elements: (1) inexcusable delay in asserting a right; (2) an implied waiver arising from knowing acquiescence in existing conditions; and (3) circumstances resulting in prejudice to the adverse party. *Id.*

In its brief, the DLGF contends that the first element of laches is satisfied because CCSC had numerous opportunities, before September of 2003 (when it fixed its 2004 budget), to identify the Assessor’s error.¹³ Consequently, CCSC’s “delay in addressing [the] erroneous data in its budget calculations [until October 27, 2004] is

¹³ The DLGF claims that the Assessor’s error was “a matter of public record since at least May 15, 2003.” (DLGF Br. at 13.) In turn, the DLGF maintains that CCSC should have discovered the error, at the earliest, in July of 2003 and, at the latest, before it fixed its budget, tax levy, and tax rates on September 15, 2003. (See DLGF Br. at 11-13.)

inexcusable[,]” as CCSC “had a legal duty and a fiduciary duty to independently verify the accuracy of [the] [] data” on which it relied to formulate its budget, tax levy, and tax rates. (DLGF Br. at 13.) The Court disagrees.

The DLGF’s brief should not only present the issues to be decided by this Court, but it should be of material assistance to the Court in deciding those issues. *See Hebel v. Conrail, Inc.*, 475 N.E.2d 652, 659 (Ind.1985) (citation omitted). Accordingly, Indiana Appellate Rule 46(A)(8)(a) requires each contention in a brief to be supported by citation to an authority, whether a statute, case, or otherwise. *See* Ind. Appellate Rule 46(A)(8)(a). The DLGF has offered no authority whatsoever to support its contention that CCSC was legally bound to verify the accuracy of the information it received from the Auditor before formulating its proposed budget, tax levy and tax rates. This Court will not search the Indiana Code for the section the DLGF may have intended to cite, nor will it expend valuable Court resources searching for legal authority to support the DLGF’s claim. *See, e.g., Galligan v. Indiana Dep’t of State Revenue*, 825 N.E.2d 467, 484 n.21 (Ind. Tax Ct. 2005) (stating that when a party fails to support its claim by specific argument or by citation to authority, the claim does not present an issue for determination by the Tax Court); *Young v. Butts*, 685 N.E.2d 147, 151 (Ind. Ct. App. 1997) (stating that a court “will not search the . . . authorities cited by a party in order to find legal support for its position”).

Because the DLGF has not satisfied the first element of laches, there is no need for the Court to address the remaining two elements. Consequently, the DLGF is not entitled to judgment on the pleadings as to this issue.

III.

Finally, the DLGF maintains that it is entitled to judgment on the pleadings because CCSC's right to appeal for emergency financial relief for the 2004 and 2005 budget years is barred by the statute of limitations. Indeed, "[w]hen a complaint shows on its face that it has been filed after the running of the applicable statute of limitations, judgment on the pleadings under Ind[iana] Trial Rule 12(C) is appropriate." *Richards-Wilcox, Inc. v. Cummins*, 700 N.E.2d 496, 498 (Ind. Ct. App. 1998).

As alluded to earlier, school corporations may challenge their budgets, tax levies, and tax rates by initiating either of two different appeal procedures. See *supra*, n.12. See also *Bd. of School Comm'rs of City of Indianapolis v. Eakin*, 444 N.E.2d 1197, 1200 (Ind. 1983). One of these procedures allows for a school corporation to petition for emergency financial relief:

Notwithstanding IC 6-1.1-17, a school corporation may appeal to the [DLGF] for emergency financial relief for the ensuing calendar year at any time before:

(1) September 20; or

(2) in the case of a request described in [Indiana Code § 6-1.1-19-4.7(a)], December 31;

of the calendar year immediately preceding the ensuing calendar year.

IND. CODE ANN. § 6-1.1-19-2(d) (West Supp. 2004-2005). Accordingly, the DLGF maintains that CCSC had until September 19, 2003, to petition for emergency financial relief for its 2004 budget and until September 19, 2004, to petition for emergency financial relief for its 2005 budget. Instead, CCSC "did not petition for emergency financial relief for 2004 or 2005 until October 2004." (DLGF Br. at 15.)

CCSC maintains, however, that its request for emergency financial relief was made pursuant to Indiana Code § 6-1.1-19-4.7, which provides that the DLGF may authorize an excessive levy with respect to every appeal petition that:

includes a request for emergency relief for the purpose of making up a shortfall that has resulted:

(A) whenever:

(i) erroneous assessed valuation figures were provided to the school corporation;

(ii) erroneous figures were used to determine the school corporation's total property tax rate; and

(iii) the school corporation's general fund tax levy was reduced under IC 6-1.1-17-16(d); or

(B) because of the payment of refunds that resulted from appeals under this article and IC 6-1.5[.]

A.I.C. § 6-1.1-19-4.7(a)(2),(d). Accordingly, "CCSC had until December 31, 2004, within which to appeal to the DLGF for emergency financial relief, and therefore its appeal was timely." (Pet'r Resp. to [DLGF]'s Mot. for J. on the Pleadings at 11.) The Court must disagree.

CCSC's pleadings clearly allege that it has suffered from a levy shortfall that has resulted because erroneous assessed valuation figures were provided to it and because those erroneous figures were used to determine its total property tax rate. Nevertheless, CCSC never made the assertion, in its pleadings or otherwise, that "[its] general fund tax levy was reduced under IC 6-1.1-17-16(d)." See A.I.C. § 6-1.1-19-4.7(a)(2)(A)(iii). Thus, CCSC's argument is insufficient to defeat the DLGF's motion for

judgment on the pleadings as to this issue.¹⁴

CONCLUSION

The DLGF's motion for judgment on the pleadings is DENIED with respect to Issues I and II. Consequently, the DLGF is ordered to both conduct a hearing on CCSC's Appeal and to refer the Appeal to the School Property Tax Control Board for its review and recommendation. The DLGF's motion for judgment on the pleadings is GRANTED, however, with respect to Issue III.

SO ORDERED this 23rd day of June, 2005.

Thomas G. Fisher, Judge
Indiana Tax Court

¹⁴ This is a harsh result, given the fact that CCSC could not, and did not, discover the error – which was made through no fault of its own – until after the September 20th deadline. Nevertheless, “[w]hen the language of a statute is plain and unambiguous, the court has no power to construe the statute for the purpose of limiting or extending its operation.” *F.A. Wilhelm Constr. Co. v. Indiana Dep’t of State Revenue*, 586 N.E.2d 953, 955 (Ind. Tax Ct. 1992) (quoting *C & C Oil Co. v. Indiana Dep’t of State Revenue*, 570 N.E.2d 1376, 1380 (Ind. Tax Ct. 1991)). That is a task solely for the legislature. See *id.*

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