

**STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE
Room 1058, IGCN – 100 North Senate
Indianapolis, IN 46204**

**IN THE MATTER OF THE PETITION)
FOR REVIEW OF COUNTY LAND ORDER)
BY LAKE COUNTY)** **LO22-001**

FINAL DETERMINATION

PETITION FOR REVIEW – 2022 LAKE COUNTY LAND ORDER

Summary and Procedural History

On behalf of 191 signatory taxpayers, Lake County taxpayer Andy Young timely submitted a petition pursuant to Ind. Code § 6-1.1-4-13.6, to the Department of Local Government Finance (“Department”) on May 19, 2022, requesting a review of the 2022 Lake County Land Order.¹ The Lake County Property Tax Assessment Board of Appeals (“PTABOA”) adopted the land order on April 6, 2022. When a petition is submitted to the Department not later than 45 days after the adoption of a county land order and includes either 100 property owners’ signatures or 5% of the property owners’ signatures in the county, the Department *shall* review the land values and after a public hearing, approve, modify, or disapprove them.

Indiana Code 6-1.1-4-13.6 states as follows:

IC 6-1.1-4-13.6 – Determination and review of land values

Sec. 13.6. (a) The county assessor shall determine the values of all classes of commercial, industrial, and residential land (including farm homesites) in the county using guidelines determined by the department of local government finance. The assessor determining the values of land shall submit the values to the county

¹ Mr. Young submitted the petition with signatures via email on May 19, 2022, and through regular mail in the U.S. post. DLGF received the hard copies of the signed petition on May 20, 2022. Some signatures and addresses were illegible, but the DLGF counted each and discounted none to reach the 191 total number. The DLGF did not at any time question the validity of the petition, finding that it met the threshold for review as required by Ind. Code 6-1.1-4-13.6.

property tax assessment board of appeals by the dates specified in the county's reassessment plan under section 4.2 of this chapter.

(b) If the county assessor fails to determine land values under subsection (a) before the deadlines in the county's reassessment plan under section 4.2 of this chapter, the county property tax assessment board of appeals shall determine the values. If the county property tax assessment board of appeals fails to determine the values before the land values become effective, the department of local government finance shall determine the values.

(c) The county assessor shall notify all township assessors in the county (if any) of the values. Assessing officials shall use the values determined under this section.

(d) A petition for the review of the land values determined by a county assessor under this section may be filed with the department of local government finance not later than forty-five (45) days after the county assessor makes the determination of the land values. The petition must be signed by at least the lesser of:

- (1) one hundred (100) property owners in the county; or
- (2) five percent (5%) of the property owners in the county.

(e) Upon receipt of a petition for review under subsection (d), the department of local government finance:

- (1) shall review the land values determined by the county assessor; and
- (2) after a public hearing, shall: (A) approve; (B) modify; or (C) disapprove; the land values

DLGF Review and Decision

After an extensive review and public hearing, the Department finds that Lake County properly adopted the 2022 Lake County Land Order and that taxpayers submitted no evidence to demonstrate that the Department should modify or disapprove the order. Thus, the Department approves the Lake County land order with no changes, as discussed below.

The Department held a public hearing virtually, open to any members of the public, on August 10, 2022. The Department posted notice and documents related to the proceeding on its website on July 15, 2022, inviting residents and property owners in Lake County to testify or provide statements in writing. In addition, while Ind. Code § 6-1.1-4-13.6 provides no notice requirement, the Department went over and above to provide information to be transparent and afford ample opportunity for taxpayers to voice grievances, by sending letters notifying

taxpayers who signed the petition.² Only Mr. Young, Mr. James Nowacki, and Ms. Joslyn RW Kelly responded by email that they wished to speak at the public hearing on August 10. The Department received no other requests to provide statements for the hearing. The Lake County Assessor, LaTonya Spearman, responded to Mr. Nowacki's and Mr. Young's questions and comments. Mr. Ed Gholson, the deputy for Calumet Township Assessor Jackie Collins, also responded to questions and comments raised by taxpayers. The hearing was recorded and is part of the Department's record.

The Department also provided additional time after the hearing until August 19, 2022, for any person to submit written statements. Only Mr. Young, Mr. Nowacki, and Ms. Kelly submitted additional comments in writing. The Lake County Assessor, Calumet Township, and Ross Township Assessors submitted additional information, as described below, both before and after the hearing.

Focus of the DLGF Review-Calumet Township in the City of Gary

Mr. Nowacki, a Lake County taxpayer, contacted the Department several times by phone and email before the hearing, and along with Mr. Young, expressed that as the organizers of the petition, their primary concern focused upon Calumet Township and the City of Gary. The petitioners were particularly concerned with what they claimed was overassessment of vacant or nearly vacant residential parcels.

The Department sought from the outset of these proceedings to provide a thorough, transparent, and helpful review and analysis of the issues and arguments provided by the petitioner. To that end, the Department granted both of the petitioners great deference in presenting their contentions by providing extensive time to express concerns. Recognizing that the taxpayers who signed the petition represented different parts of the county, the Department also reviewed the county's most recent ratio studies for all areas of Lake County. This review was completed in lieu of the fact that these ratio studies already been extensively analyzed by the Department each year the Lake County Assessor submitted them for review.³

² While many signatures and addresses were illegible, the Department spent copious time deciphering them to the best of its ability, relying primarily upon detailed information it posted on its website nearly a month before the hearing.

³ See DLGF Document 5 in the Addendum.

Among the various claims presented, Mr. Nowacki and Mr. Young contended that the land values were not uniform, the land order was both outdated and applied retrospectively, and the outdated neighborhood maps contributed to the over assessment problem.⁴ While they made other, tangential complaints unrelated to the land order itself that are outside the scope of this review and the Department's authority, we focus our discussion on the points below.

The scope of this review is limited to the authority granted to the Department in statute, which is to analyze and determine whether the land order is reflective of true tax values and whether it was properly adopted by the county. While Mr. Nowacki and Mr. Young made additional arguments, the Department's review is focused solely upon the land order; however, the petitioner's additional contentions have been noted for the record.

Conversely, Ms. Kelly, business owner and taxpayer in Calumet Township, spoke in opposition to the petition. Specifically, Ms. Kelly contended that Mr. Nowacki and Mr. Young had created problems for the other property owners in Gary, by failing to pay their fair share of taxes, and by litigating hundreds of appeals and claims against the city and county, in an effort to shift tax burdens to other taxpayers. She stated that some of the problems with blighted properties stemmed from investors like Mr. Nowacki and Mr. Young, who did not keep up their properties. She contended that the land order was fair and that she was opposed the petition.

DLGF Approach to the Land Order Review—Standard Operating Procedure

The Department followed standard operating procedures for reviewing land orders. The Department is tasked with working with multiple stakeholders to promulgate administrative rules, certify budgets, and to provide policy makers with information relevant to their work. As a part of its statutory duties, the Department provided several avenues of communication with any party before, during, and after the hearing, for anyone who wished to express concerns. In addition, all documents provided by the Lake County assessing officials were posted on the Department's website. Mr. Nowacki and Mr. Young were the only petitioners that contacted the Department with additional information and opinions on the Lake County land order. Ms. Kelly

⁴ While entirely separate from this proceeding, the Department notes that Mr. Nowacki and Mr. Young have availed themselves of their rights to file property tax appeals through the county PTABOA and IBTR through the years, filing hundreds of appeals on properties they own in Lake County. Mr. Young filed at least one appeal with the Indiana Tax Court. In the appeals, they have argued that values are too high and land values are incorrect.

was the only member of the public that testified in opposition to the land order petition to also contact the Department with additional information.

Additionally, while the Department did study and review individual properties whose addresses taxpayers listed on the petition at both a macro and micro level, the Department is barred from substituting its judgment for any direct appeal contesting an individual property's assessed value. Indiana Code specifically delegates this authority to the county PTABOA, whose decision an assessor or taxpayer may then appeal to the Indiana Board of Tax Review, and Tax Court, pursuant to Ind. Code § 6-1.1-15 et. seq. Further, as a creation of the legislature, the Department has only the authority granted to it by the General Assembly, as the Indiana Tax Court described of administrative agencies dealing with property tax issues. *Bielski v. Zorn* 627 NE 2d 880 (Ind. Tax Ct. 1994). Thus, the Department will not analyze individual property values in this decision.

**Land Order Review Requested by Signatory Taxpayers
and Specific Contentions Asserted by Mr. Young and Mr. Nowacki**

In general, one may assume that the taxpayers who signed the petition, were dissatisfied in some way with property taxes and the land order specifically. As organizers, Mr. Nowacki and Mr. Young as included a citation to Indiana Code provisions related to the Department's review of a county land order at the top of each page the petitioning taxpayers signed. They also typed out a description of the petition's purpose, as restated below:

Pursuant to IC 6-1.1-4-13.6(d) et seq., the undersigned property owners in Lake County, Indiana do hereby submit this petition to the Indiana Department of Local Government Finance, to review the land values that have been submitted by the Lake County Assessor. These land values were made a matter of public record on April 6th, 2022, at a meeting of the Lake County PTABOA.

Mr. Young and Mr. Nowacki were the only petitioners that testified or submitted evidence in support of the petition, and the Department has received no additional specific contentions from other signatory taxpayers.

Mr. Nowacki and Mr. Young presented the following specific arguments, both at the hearing and in written testimony submitted by email. Mr. Young supplied some written emails containing facts seeking to support of some of the concerns raised. These arguments can be summarized as follows:

- (1) The Assessor provided and the county PTABOA adopted the land order late, and out of order with the required statutory provisions. The land order was adopted and applied retrospectively. They used 2021 sales data and applied it to 2018. This is not proper.
- (2) The land order is flawed, and the base rates are too high, especially in Calumet Township, in the areas of Gary with vacant lots and blighted areas. While the petitioners did not cite to any specific neighborhoods, in general, the rates are too high and do not reflect market value-in-use.
- (3) The outdated neighborhood boundaries in Calumet Township, especially in old areas with vacant lots, were drawn long ago and have resulted in the Assessor's improper comparison of properties that are dissimilar to one another for purposes of establishing assessed value.
- (4) Some properties are valued for assessment purposes at higher values than appraisals show them to be worth. Thus, the assessed values are wrong.
- (5) When property is sold at tax sale, the sale price should represent the market value-in-use which is sometimes \$10-\$20 each. Every year, there are between 7000-10,000 properties in tax sale in Calumet Township. This shows that there is no market demand for the properties.
- (6) Neighborhoods should be combined so that there are fewer than the current 94 or 92 separate neighborhoods.

Additional Contentions Alleged by Mr. Nowacki and Mr. Young

- (7) Lake County, and Gary in particular, have received federal monies unrelated to property tax issues. They should use the money to fix the property tax system. State and local governments receive a lot of federal money.
- (8) Land values in Lake County are based on bank fraud. A blue-ribbon commission organized by a past assessor did not produce results. Appraisals commissioned for it are invalid.

(9) Assessed values for individual properties are not correct. The appeal process has brought little satisfaction over many years contesting hundreds of properties and takes too long.

(10) Properties are assessed based on connections and ethnic background. This is not right.

Taxpayers' Evidence

As described above, only two (2) of the 191 taxpayers who signed the land review petition, provided any statements or written materials. Mr. Young and Mr. Nowacki primarily provided contentions, but no evidence to substantiate their claims. Mr. Young did provide his detailed analysis of various aspects of their arguments, primarily by email, and it is clear that he has devoted significant time and effort to studying the issues. While he did not provide direct evidence to prove their claims, he submitted briefs he had personally written to the Indiana Tax Court in his case, documents related to his bankruptcy case, and various statements.

Mr. Nowacki did not submit any written documents; however, both he and Mr. Young made statements at the hearing. He referred to various appraisals, commissions, and studies, but did not provide any of the referenced materials to the Department. The Assessors did take work to provide some of the documents referenced by Mr. Nowacki and Mr. Young to the Department.

The Assessors' Evidence

Lake County Assessor, LaTonya Spearman, stated that Mr. Nowacki and Mr. Young were incorrect in all of their arguments and that the Department should approve the 2022 Lake County land order with no changes. She and the Calumet Township Assessor, Jackie Collins, submitted a large collection of data in compliance with statutes and regulations. Additionally, the Department had previously approved ratio studies and carefully analyzing Lake County sales and information. Assessor Spearman complied with requirements in compiling and providing the land order to the county PTABOA. Specifically, she noted that the land order was not applied retroactively, but instead, the county PTABOA adopted the 2022 land order in the last year of the 4-year reassessment cycle and specified that it would be applied to the next four (4) years. Lake County had, in recent years, adopted its land orders in the last year of the four-year reassessment cycle. Assessor Spearman stated that she plans to change this approach in the future.

While Calumet Township neighborhoods were indeed created decades ago, when the city had a much higher population and a vibrant economy, the values presented are still correctly reflected, and are in sync with other neighborhoods. The assessor noted that most of the neighborhoods surpassed the 3% threshold standard for sales in reaching values, and when sufficient sales data was lacking, land rates were reviewed against comparable neighborhoods and surrounding areas and adjusted with influence factors as is a standard assessment practice. The current land to building ratio using assessed values was also calculated and reviewed and these are all within acceptable assessment standards.

Assessor Spearman stated that land base rates are accurate, and in line with neighborhood maps, and are uniform and equal. Further, a purchase price at a tax sale is not the market value-in-use or true tax value of a property, as Mr. Nowacki and Mr. Young contend. She and the Calumet Township Assessor, along with the other township assessors, worked diligently to ensure that the land order for 2022 was correct, and properly presented to the county PTABOA.

Assessors' Documentary Evidence

Assessor Spearman and Township Assessor Collins provided extensive and detailed documentary evidence in support of their positions.⁵ These exhibits are outlined in the attached list. They submitted voluminous and separate binders for residential, commercial, and industrial properties with extensive data, detailing neighborhood numbers, base rates per square foot, descriptive notes about each neighborhood, and other quantitative information that the Department has examined in depth.

For Calumet Township, as Mr. Nowacki and Mr. Young requested, the Department focused on the data supporting the land order, especially for residential properties. The Department analyzed base rates, low and high values, qualitative valuation notes, and the like. The Department then analyzed and selected various additional properties throughout the neighborhoods, to cross check values, data, and make comparisons. In doing so, the Department

⁵ Ross Township Assessor Angela Guernsey also provided land order information for her township, but as Mr. Nowacki and Mr. Young requested that the Department focus on Calumet Township, it is not discussed at length here.

judiciously reviewed evidentiary data the assessors submitted, and cross checked it with its own, separate, data pulled from property record cards, GIS, sales, and similar resources.

The Department also closely analyzed the neighborhood map, a well delineated, color-coded, and numbered map of all neighborhoods in Calumet Township. It found this information to be very well organized and that it corresponded with the data in the extensive binders of evidence.

DLGF Review

The Department's land order review under Ind. Code § 6-1.1-4-13.6 is the first application of these provisions. The Department assigned two (2) highly trained field representatives with a combined experience of over 60 years, to closely review the land order and evaluate the evidence submitted by the taxpayers and the assessors. This process was supervised by the Assessment Division Director, who has over 40 years of experience in the assessment field. Additionally, a Department deputy general counsel, with extensive experience in property tax matters, dedicated a significant amount of hours to this review and legal analysis.

In total, the Department spent approximately 100 hours gathering, reviewing, and analyzing information, communicating with taxpayers, and the assessors. The Department analyzed the many contentions provided by Mr. Young and Mr. Nowacki provided, as well as the assessors' land order related evidence. While none of the taxpayers' documents were organized with exhibit labels, the Department marked each one in no certain order, to memorialize them for review and recordkeeping purposes. These are listed in Addendum 1, along with the documents provided by the assessors. The Department also asked questions and gathered information and outlined key documents it used in its review and analysis.

The Land Order Hearing—August 10, 2022

The land order review statute in Ind. Code § 6-1.1-4-13.6 provides no requirements for notice, procedures, or other instruction to the Department. It simply provides a threshold for review with a requisite number of petition signatures, and specifies that the Department must hold a hearing. It does not require notice to taxpayers, timelines within which to hold a hearing, or any other procedural or substantive aspects. Thus, one can reasonably gather that the

legislature wanted to provide the Department with the authority to give taxpayers a wide berth to express complaints once the threshold requirements of signatures are met.

Additionally, the Department sought to exceed the typical expectations of transparency and to grant the taxpayers the maximum possible opportunity to express their concerns with the land order. The Department dedicated extensive time to both a review of the issues presented, and listening to the concerns raised. The Department always seeks to ensure that taxpayers' voices are heard.

Further, Department posted all relevant documents and hearing guidelines to its website on July 15, 2022, almost a month before the hearing took place. It granted the organizing taxpayers extensive time to speak at the hearing, provide statements and analysis by email, and to convey questions and concerns. It took frequent calls from the two organizing taxpayers, and also allowed ten (10) days to submit any additional written testimony and evidence after the hearing.

Indiana Law—Background—Land Orders

Indiana's property tax system is based upon true tax value and market value-in-use by tasking county assessors with reassessment of one fourth of county properties every four (4) years. Assessors are then required to apply trending factors each of the other years, to keep properties at market rates. Legal authority related to property tax derives almost entirely from the Article X of the Indiana Constitution, the Indiana Code, and case law from the Indiana Tax Court and the Indiana Supreme Court. While substantial case law from the Indiana Tax Court exists on various topics, there are no cases related to Ind. Code § 6-1.1-4-13.6 after the State of Indiana moved to its current market-based system.

The legislature determines how property tax is assessed. In addition to valuing improvements (such as buildings), each county is required to have a land order which sets base rates. Assessing officials can then adjust these base rates, by adding an influence factor depending upon circumstances that make the land more or less valuable, such as location, unusual measurements, or other characteristics. All land has a land value, whether the land is platted, acreage, commercial, residential, agricultural, or industrial. Land orders seek to establish a basis for categories of land throughout a county.

Under Ind. Code § 6-1.1-4-13.6 each county assessor must present the land order to the county PTABOA every four (4) years, and under statute, reassessment cycles are four (4) years. While the county assessor is not required to provide a new land order in the first year of a reassessment cycle, many take that approach. If the county assessor does not determine the requisite land values under a land order, the county PTABOA must do so instead. Ultimately, the Department may adopt a land order for a county if these steps are not followed, but it defers to local control, and therefore, it has thus far refrained from taking this action.

Historical Background—Calumet Township and City of Gary

Calumet Township is situated on a large portion of land divided into approximately 92 neighborhoods, some of which are located in blighted areas, including a downtown and streets which once featured vibrant stores for shopping decades ago during the City of Gary's heyday, to the upscale community of Miller Beach on Lake Michigan. It is helpful to have some framework of its history, which is unique to it, and to consider from a land order analysis standpoint, that the southern part of Lake County is rural and features small towns and farms.

Largely dependent on the steel mill industry, Gary was once a thriving city which was the envy of the country. With changing economic conditions over time, Gary's precipitous economic decline is attributed to the evaporation of many of the jobs from previously thriving steel mills, as many closed decades ago. Since then, many areas with once prosperous neighborhoods and neat houses, yards, and communities, became deserted streets reminiscent of ghost towns.

While the Department bases its current analysis and detailed review of the land order for Lake County, and Calumet Township in particular, it can be helpful in a general sense, to understand the big picture as Indiana's property tax system is based on market value-in-use and true tax value. In the past few years, real estate values have sky-rocketed nationally and in Indiana, with average increases of more than 20% in many counties. Against that general backdrop, we now look at additional factors that impacted Lake County, and specifically Calumet Township.

Even within the city of Gary and Calumet Township, very significant differences exist between neighborhoods. Indiana's approach to valuing properties for assessment purposes takes these neighborhood differences into account. To the north, Miller Beach, a generally affluent

area, features property along the lake, and large houses with values in the \$400,000-\$500,000 range, and up to \$750,000 for homes with a lake view. In these neighborhoods the assessor notes “lake view” “within walking distance of the beach” on Neighborhood Valuation data sheets she provided, each of which is numbered and corresponds with the township neighborhood map.⁶

In other areas of Gary and Calumet Township, the assessor notes in the residential Neighborhood Valuation Forms, descriptions for purposes of the reassessment process, “paper streets” in “very poor areas.” This means that streets that at one time were bustling places, now exist only on paper, with no utilities, and sometimes feature “approximate” addresses, as brush, trees, and weeds have overtaken parcel lines that previously existed between properties that were inhabited by people living in houses.⁷ In that neighborhood, the lowest base rate is \$20 per square foot. No sales took place in the neighborhood for use in the ratio study or land order computations. Many of these old neighborhoods had no sales upon which to base land values.

Throughout the residential land valuations, the assessor-made notes to indicate “no water/sewer”, “paper streets”, “very poor area” and many neighborhoods were noted as having had no sales at all. In other areas such as Neighborhood 2555, the assessor noted that the residential area contained mobile homes and dwellings in very poor condition. The land base rate was \$57.

In addition to valuing an individual area, for purposes of property tax assessment, Indiana law requires that assessors analyze, value, and equalize real property comparing similar classes and neighborhoods, to one another. Thus, residential is a different class from commercial, and most importantly in this review, residential properties in one area of the county, such as Miller Beach, are not compared and valued with residential vacant lots without utility service, in abandoned areas of Gary.

The detailed Residential Neighborhood Valuation Forms for each separate neighborhood, with the descriptive notes, base rates, and other key information, reflect the assessor’s attention to detail, and that the land order was based on data that was carefully reviewed, organized, and compiled.

⁶ See Assessor Exhibits 1-3.

⁷ See for example, Neighborhood Valuation Forms for Neighborhood 02524 in Assessor Exhibits 1-3.)

In sum, Indiana has a mass assessment system, and on an individual basis, properties can be valued by using either a sales comparison, cost, or income approach to value. In the areas of concern to Mr. Nowacki and Mr. Young, this can be challenging because there are often few sales, there is likely no income because properties are abandoned, and there is no building.

**Mr. Nowacki and Mr. Young Provided No Evidence that
Tax Sale Purchase Prices Reflect Market Values Related to the Land Order**

While Mr. Nowacki and Mr. Young contend that Lake County has thousands of properties in tax sales every year, and that assessed values should reflect tax sale purchase prices, they submitted no evidence to support their contentions. They argued that they had purchased properties at tax sale over many years, for a few hundred dollars or \$20 but provided no written evidence. They provided no analysis or data about the tax sales at all or how this contention relates to the land order and base rates.

Instead, the assessor provided spreadsheets analyzing the assessed value of many of Mr. Nowacki's and Mr. Young's properties, alongside recent actual sale prices. These spreadsheets highlighted the fact that a list of Mr. Young's properties in total were assessed at \$338,100 but had sold for a total of \$5,470,192 from 2017-2022. Because sales are often the best indicator of value in assessment practice and in Indiana law, it appears that these particular properties may be significantly underassessed.⁸

The assessor also provided a spreadsheet analyzing Mr. Nowacki's properties. The total assessed value collectively was \$49,700 but the same properties sold for a total of \$436,880. Thus, these properties may also be significantly underassessed. There is no evidence they are over-assessed. Thus, if anything, the assessor's exhibits prove that there is a market for properties in Calumet Township, and that contentions the tax sale purchase prices should reflect value in the land base rate, are not supported by evidence. In the last few years, property sales have accelerated, as outlined in the detailed spreadsheet of Mr. Young's property sales provides.

Taxpayers Provided No USPAP-Compliant Appraisals to Support their Contentions

While the Indiana Tax Court has long held that Uniform Standards of Professional Appraisal Practice ("USPAP") -compliant appraisals can be the best way to establish value in a

⁸ See Assessor Exhibit 7.

single property assessed value appeal through the county PTABOA, IBTR and Tax Court, the Department had no appraisals to consider here in this review, although Mr. Nowacki and Mr. Young made contentions and vague references to appraisals from prior years that the past assessor commissioned. Although it is possible that appraisals could provide value to the land order review, appraisals usually are focused upon obtaining a market value for individual properties. Here, the Department considers the land order for the entire county. The taxpayers failed to provide any appraisals for consideration, nor did they provide any analysis or any information from any appraisal other than to make summary conclusions that appraisals were lower than assessed values.

Mr. Young and Mr. Nowacki also argued that appraisals the former assessor had commissioned for a handful of properties, proved that the individual properties were over assessed. They referred to these at various times as appraisals from a “blue ribbon commission.” While they did not submit any appraisals to support their claims or a report from the referenced commission, the assessors did provide several of the documents referenced by the taxpayers labeled “market value estimates” by Mr. William Eenshuistra with the land order materials. However, these estimates appear to be attempts to value areas of property within certain general geographic boundaries, but do not appear to be USPAP-compliant appraisals of individual properties.⁹

Thus, the taxpayers did not ultimately provide any evidence through the use of any appraisals, that the 2022 land order is flawed. The Department, despite attempts to decipher what specific appraisals and commission reports the taxpayers described, were unable to determine to which appraisals the taxpayers actually referenced, much less analyze them in a manner consistent with valuing land under the land order.

Adoption of the Land Order

The former Lake County Assessor at the time (now City of Gary Mayor, Jerome Prince), presented the proposed land orders to the county PTABOA in 2012 and 2018, and Assessor Spearman presented it in 2022.¹⁰ The county PTABOA adopted the proposed land orders in 2012

⁹ See the Calumet Township Residential Land Order binder.

¹⁰ See PTABOA minutes in the record. Each are noted with dates and detailed descriptions of the land orders.

and 2018, and 2022. Since Indiana uses a property tax system in which taxpayers pay a year later than the property is assessed, the 2018 land order as applied is for taxes paid in 2022, but the 2022 land order as adopted, is now applied for assessment purposes and tax bills that will be paid in 2023. The assessed values from the land order as currently applied were adopted at the county PTABOA meeting on June 27, 2018. The minutes from each of these respective county PTABOA meetings, reflect the actions of the county PTABOA. The county PTABOA adopted the minutes. We focus this review on the 2022 land order. Taxpayers have 45 days to submit a petition after the land order is adopted, thus, this takes us to the 2022 land order under review.

Additionally, the assessor described the applicability of the land order in correspondence in a way that could have created confusion for Mr. Young, because she said that the county PTABOA adopted the land order on June 27, 2018, for the years 2014-2018, implying that it was retroactive. This was not an accurate description, because the land order was adopted in the last year of the 4-year reassessment cycle, and applied to the next 4 (four) assessment years (2018-2022). Assessor Spearman, now in her first term as the county assessor, has chosen to change this approach, and instead, plans to present a land order to the county PTABOA for consideration, in the first year of the reassessment cycle.

Further, Lake County is unusual in the state, in that it still maintains township assessor's offices. In prior years, including for the year under consideration here, some township assessors completed their own land orders for their township and submitted those to the county. Assessor Spearman also stated that she plans to change this approach and manage the land order compilation entirely under her county office.

Thus, Lake County followed required legal procedures for adoption of the land order, and they applied the land order. Next, we analyze the land order itself.

Analysis of the Land Order

A land order provides base rates for categories of land throughout a county. These base rates can then be added to or subtracted from, depending upon factors such as neighborhood values, economic conditions, specific property's characteristics, and the like. Additionally, the assessor must complete a ratio study every year per Ind. Code § 6-1.1-14-12. The ratio studies stress test values to ensure that adequate sales are used to determine values, and that values are

equalized across properties. Mathematical formulas are applied to ensure that property values fall within acceptable assessment practice ranges.

After the taxpayers filed the petition for review, the Department re-checked and cross-checked ratio studies for each of the three years prior to 2022, and 2022. The Department also sampled over 15 properties in detail across the county, and compared numerous statistics, focusing on Calumet Township and especially residential properties, as the organizing taxpayers of the petition, Mr. Young and Mr. Nowacki, requested.

Analysis of Individual Properties

In addition to analyzing the land order itself, the Department also studied individual properties belonging to Mr. Nowacki and Mr. Young in Calumet Township, as well as other owners who signed the petition. The Department reviewed a long list of a sample of properties in detail to cross check its work on the ratio studies.

This review included the following:

- (a) Pictures from GIS to determine if a property was vacant land, or if it still had a structure
- (b) Comparison to properties on the same street and neighborhood
- (c) Comparison to properties in other parts of the county
- (d) Analysis and review of appraisals submitted by the county and the taxpayers

All properties' land values fell within the accepted International Association of Assessing Officers (IAAO) guidelines both for median ranges of difference, and in line with neighboring property values.

Neighborhood Analysis

The Lake County Assessor provided a neighborhood map with clearly delineated lines.¹¹ Mr. Gholson conceded that neighborhood lines are older and have not been updated for decades, but that this does not impact values and boundaries. The neighborhood valuation sheets were clearly and concisely descriptive, providing neighborhood numbers, base rates, and descriptions of the area. Each numbered neighborhood then includes data analysis with each, demonstrating

¹¹ See Assessor Exhibit 1-3.

how it compares to other neighborhoods with similar property assessed values. This detailed and clearly outlined information is vital to the land order analysis.

Lake County Ratio Studies: 2019-2022

Each year, the Department receives and carefully reviews, ratio studies pursuant to Indiana Code as submitted by each county assessor. Thus, while the Department already stress tested each ratio study from Lake County extensively during the requisite year of adoption as required by statute, Department staff revisited the notes for each ratio study from 2019, 2020, 2021, and 2022. In these summary notes, staff trained in statistical analysis, had previously noted various questions of data that fell outside any norms. For instance, when the Department sees a greater than 10% increase in a particular class (such as industrial improved in a neighborhood, town, or township, they request more information and an explanation.

In carefully reviewing the four ratio study summary reports again from the most previous years, the Department noted no outstanding issues with Calumet Township assessments, trending, or any other variable that would cause concern or validate any of the arguments Mr. Young and Mr. Nowacki made, or that would cause concern regarding any other area of the county.¹² For a thorough review, illustrative and helpful points are noted from each year to elucidate key concepts.

Lake County Ratio Study 2022

In this study, property increased throughout the county, due to the new land order, market rate increases, and other factors. For example, 98% residential improved property increased in value, while Calumet Township's property values fell within the acceptable ranges. Commercial property in the township also increased in value by 17.8%. The county noted in its responses in the ratio study report, that a new casino was built, which impacted the commercial improved properties.

¹² Assessor Exhibit 5 – Department written comments from prior Lake County ratio studies written at the time the Assessor submitted the ratio studies.

Property in general increased significantly more than Calumet Township, in areas such as Cedar Creek, West Creek, and Center, where changes respectively reflected up to 20 % increases, while Calumet saw a 9.1% increase.

Lake County Ratio Study 2021

In 2021 ratio study, the Department staff conveyed no concerns about Calumet Township, but did outline questions the county answered as it stress tested other townships in the county which had higher than 10% increases in property values. These changes were attributed to reassessment and trending, and new construction.

Lake County Ratio Study 2020

Market Increases Reflected in Land Value

Throughout Indiana, real estate values reflected exponential increases in the last several years. While our analysis focuses on Lake County, and Calumet Township in particular, rapidly increasing values reflect the market throughout the United States.

In Lake County, 10% of residential vacant parcels more than doubled in value. Additionally, another 11% of these parcels increased 30-100%. Commercial and industrial property also increased in value. For convenience, a table reflecting these increases is attached.

While ratio study statistics are not used to value or appraise an individual property, the studies are essential to testing the overall accuracy of values to ensure that these are not out of bounds with assessment standard requirements.

Summary of DLGF Analysis and Decision

- (1) While Mr. Nowacki and Mr. Young argued that the county PTABOA adopted the land order in 2022 and applied it retroactively to 2018 values, this is not accurate. They also argued that it was improper for township assessors to compile their own land orders to submit to the county assessor.
 - (a) The county PTABOA adopted the land order in 2022, the last year of the Lake County reassessment cycle. The assessor applies it going forward and not retrospectively. The county PTABOA held a hearing and adopted the order. Thus,

the Department finds no fault with the county PTABOA's adoption and the assessor's application of the land order. It was not applied retroactively.

- (b) While the Indiana Code requires that the county assessor provide the land order to the county PTABOA, it does not prohibit township assessors from assisting with the land order process. That being said, Assessor Spearman indicated that going forward, as a newly appointed official, she plans to compile all parts of the land order under the county assessor's office.
- (2) The land order is incorrect in Calumet Township—the base rates are too high, especially in the areas with vacant lots and blighted properties.

- (a) The Department analyzed the base rates, stress tested the ratio studies again for the four years leading up to the county PTABOA's adoption of the 2022 land order, studied and compared properties in one neighborhood to the next, and viewed records from GIS, property record cards, sales information, and other relevant data. It found nothing to support the arguments of Mr. Nowacki and Mr. Young. The data related, as reflected by sales in recent years by Mr. Nowacki and Mr. Young for their respective properties, appears to indicate that their particular properties may be under-valued.

- (3) Additionally, they contended that the neighborhood map for Calumet Township was outdated and that land base rates varied from one to the next, although some areas had similar characteristics. They also said that the assessor had an old, outdated neighborhood map that existed only on a tattered paper in the assessor's office, and that no one could get a copy of it.

- (a) Contrary to these assertions, the assessor provided an easy to read, well delineated neighborhood map, and each neighborhood had an assigned number that corresponded with data in the voluminous and well-organized land order records. While Deputy Calumet Township Assessor Gholson conceded that the neighborhoods were old and lines had been drawn decades ago, this did not impact the property valuations, and the land order reflected the actual values.

- (b) In analyzing the evidence, the Department finds no substantive issues with the neighborhood maps for purposes of the 2022 land order. What matters is that the land order values and the subsequent derived values for neighborhoods are equalized and correct using influence factors.
- (4) Mr. Young and Mr. Nowacki argued that appraisals the prior assessor commissioned proved that properties were over-assessed.
- (a) The Department is not the proper venue to hear appeals for individual properties based on over-assessment claims. While they referred to appraisals, these arguments appear to be related to their disapproval of overall assessed value of their individual properties and not the land order for Lake County. The taxpayers did not provide any of these appraisals, the Department did review letters and information from an Indiana licensed appraiser which the assessors included in the Calumet Township land order. These appeared to be general approximations of value for an area and neighborhood, not an individual appraisal for a single property. Thus, the Department found no value in the verbal testimony by the taxpayers on these points. The Department is not even certain as to which documents they referred, as they provided none.
- (b) Additionally, many of the assessed values for Mr. Nowacki's and Mr. Young's properties actually decreased, and as noted above, the sale values far exceeded the assessed values. Mr. Young's total assessed value for a list of his properties was \$338,100, while the sale price total was \$5,470,192. Mr. Nowacki's total assessed value for a sample of his properties was \$49,700 while the sale price total was \$436,880.
- (5) The taxpayers contended that when property is sold at tax sale, that the sale price reflects the market value-in-use and true tax value. Further, they argued that because thousands of properties are in the Lake County tax sale each year, that this proves there is no market for them.

- (a) First, the taxpayers did not provide any evidence that thousands of properties are part of the tax sale each year, but if they did, there is no evidence or case law that supports this conclusion. Distressed sales, of which a tax sale is one, do not represent the market value-in-use of a property. While the Department recognizes that a larger economic conditions or trends could be represented in tax sale trends, and that this could be an underlying issue in Calumet Township, it does not have any data or evidence to support the taxpayers' contention that the tax sale price represents the market value.
- (b) Conversely, while Mr. Young and Mr. Nowacki stated that they purchased most of their properties at tax sales for less than a few hundred dollars each, an analysis provided by the Lake County Assessor for the recent sales of 22 of Mr. Young's properties, reflect that they were assessed at \$338,100 in total, but sold for a total of \$5,470,192.¹³
- (6) Mr. Nowacki contended that neighborhoods should be combined because the existence of too many neighborhoods impacts assessed values and the land order.
- (a) While Mr. Gholson conceded that a few neighborhoods could be combined from the 94 or 92 existing areas, that the actual land order values are not impacted as they are currently drawn. Again, the taxpayers presented no evidence to support their argument to combine neighborhoods, and these are local decisions that the Department has no authority to decide, apart from any impact to the land order under its authority to review it.

Additional Unsubstantiated Claims

Mr. Nowacki, in particular, made additional unsubstantiated claims that are wholly outside the scope of the Department's review of the land order. Again, the Department is limited in scope to the powers delegated to it by the legislature. *Bielski v. Zorn* 627 NE 2d 880 (Ind. Tax Ct. 1994).

¹³ See Table marked Exhibit and titled "Andy Young Sales 2017-2022.")

Some of the arguments included allegations that land values are based on bank fraud, federal monies unrelated to property tax issues are wasted and should be used to rebuild the City of Gary, and that values are assigned based on ethnic background and sold preferentially. The Department has no evidence related to any of these claims and some are outside the scope of the review. The Department was not even able to fully ascertain some of Mr. Nowacki's contentions, nor did it understand them.

Final Determination

The taxpayers submitted no probative evidence to support any of their claims that the Department should deny or change the 2022 Lake County Land Order. After extensive review by dedicated and highly trained staff, the Department orders no change to the 2022 Lake County Land Order.

Dated this 23rd day of November, 2022.

STATE OF INDIANA
DEPARTMENT OF LOCAL GOVERNMENT FINANCE

Wesley R. Bennett

Wesley R. Bennett, Commissioner

Exhibit List

Taxpayer Exhibits:

- Exhibit 1: Petition for Review Submitted by Mr. Andy Young (Emailed May 19, 2022)
- Exhibit 2: Letter dated July 13, 2022 from Mr. Andy Young with attachments—Taxpayer brief, Respondent’s Brief, and Reply Brief from Indiana Tax Court Case, *Young v. Lake County Assessor*
- Exhibit 3: Analysis of Issues—Sent to the Department by email from Mr. Andy Young (August 1, 2022)
- Exhibit 4: Analysis of Issues—Submitted to the Department by email from Mr. Andy Young (August 2, 2022)
- Exhibit 5: Analysis of Issues—Submitted to the Department by email from Mr. Andy Young (August 3, 2022)
- Exhibit 6: Analysis of Issues—Submitted by email from Mr. Andy Young (August 4 and 8, 2022)
- Exhibit 7: Email from Mr. Young to Ross Township Assessor Angela Guernsey (August 8, 2022)
- Exhibit 8: Email from Mr. Young to the Department titled “Notes to Clarify Hearing Comments” (August 17, 2022)
- Exhibit 9: Email to the Department from Mr. Andy Young with 4 attached documents with his notes (August 19, 2022)
- Exhibit 10: Email with attached letter with public comment from Mr. Andy Young (August 19, 2022)
- Exhibit 11: Miscellaneous various emails from Mr. Young and Mr. Nowacki to the Department (Various Dates from May 2022-August 2022)
- Exhibit 12: Analysis from Mr. Andy Young to the Department sent by email (September 28, 2022)
- Exhibit 13: Hearing Statement offered in writing by Lake County Taxpayer Ms. Joclyn RW Kelly

County and Township Assessors Exhibits:

- Exhibit 1: 2022 Lake County Land Order adopted by the PTABOA
- Exhibit 2: 2022 Calumet Township Commercial Land Valuation Order Data (Binder)
- Exhibit 3: 2022 Calumet Township Residential Land Order Data (Binder)
- Exhibit 4: 2022 Ross Township Land Order Data (Binder)
- Exhibit 5: Letter from Calumet Township Assessor Collins dated August 23, 2022 with Documents: (1) Settlement agreement between Lake County and Taxpayer Young for \$904, 854.58 in back property taxes (2) Appraisals commissioned by Calumet

Township Assessor (3) Appraisals for 2017 appeals (4) Appraisals initiated by taxpayer in 2017

- Exhibit 6: Email responses and information from assessors (various dates)
- Exhibit 7: Spreadsheet—Taxpayer Andy Young Lake County Property Sales 2017-2022
- Exhibit 8: Spreadsheet—Taxpayer James Nowacki Lake County Property Sales

Additional Documents from DLGF for the Record:

- DLGF Document 1: Letters to Lake County Assessor and Township Assessors Requesting Additional information for Land Orders (June 13, 2022)
- DLGF Document 2: Email Updates to Mr. Young regarding status of petition and answering questions/providing hearing information (July 8, 2022)
- DLGF Document 3: Email with 2 attachments to update Mr. Young, Mr. Nowacki and the Assessors regarding hearing date, time, and other details with 2 attachments (Letter to taxpayers and hearing guidelines.) (July 13, 2022)
- DLGF Document 4: Email confirmation that hearing notice to the public with all details was posted to the Department website on July 15, 2022.
- DLGF Document 5: Department Comments and Questions from Ratio Studies
- DLGF Document 6: Various documents related to cross check of individual property land values (See attached list for addresses)
- DLGF Document 7: Department Field Representative Reports—Lake County Land Order
- DLGF Document 8: Land Sales Analysis—Field Representatives (August 4 and August 8, 2022)