

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

AUDIT REPORT

OF

COUNTY COUNCIL

LAGRANGE COUNTY, INDIANA

January 1, 2010 to December 31, 2010



FILED
12/27/2012

TABLE OF CONTENTS

<u>Description</u>	<u>Page</u>
County Officials	2
Transmittal Letter	3
Audit Result and Comment: Lambright Trust Land Transactions.....	4-5
Exit Conference.....	6

COUNTY OFFICIALS

<u>Office</u>	<u>Official</u>	<u>Term</u>
President of the County Council	Charles F. Ashcraft John A. Price	01-01-10 to 12-31-11 01-01-12 to 12-31-12
President of the Board of County Commissioners	Phillip D. Curtis George R. Bachman	01-01-10 to 12-31-10 01-01-11 to 12-31-12



STATE OF INDIANA

AN EQUAL OPPORTUNITY EMPLOYER

STATE BOARD OF ACCOUNTS
302 WEST WASHINGTON STREET
ROOM E418
INDIANAPOLIS, INDIANA 46204-2769

Telephone: (317) 232-2513
Fax: (317) 232-4711
Web Site: www.in.gov/sboa

TO: THE OFFICIALS OF LAGRANGE COUNTY

We have audited the records of the County Council for the period from January 1, 2010 to December 31, 2010, and certify that the records and accountability for cash and other assets are satisfactory to the best of our knowledge and belief, except as stated in the Audit Result and Comment. The financial transactions of this office are reflected in the Annual Financial Report of LaGrange County for the year 2010.

STATE BOARD OF ACCOUNTS

October 11, 2012

COUNTY COUNCIL
LAGRANGE COUNTY
AUDIT RESULT AND COMMENT

LAMBRIGHT TRUST LAND TRANSACTIONS

The Lambright Trust provides for real estate to pass to LaGrange County, the details of which may be found in the audit report of the LaGrange County Commissioners dated January 1, 2010 to December 31, 2010.

In our audit of transactions concerning this real estate, we found that when the LaGrange County Commissioners exchanged the County's interest in some of its remainder interest in the Lambright real property, the Commissioners did not obtain approval from the County Council. When a county disposes of property with an appraised value of \$50,000 or more approval by the County Council is required.

Indiana Code 36-1-11-3(c) states in part: "Except as provided in section 3.2 of this chapter, in addition, the fiscal body of a unit must approve: (1) every sale of real property having an appraised value of fifty thousand (\$50,000) or more; . . ."

We also found that on October 4, 2010, the County Commissioners authorized the Trustee of the Lambright Trust to negotiate with a farmer the price per acre for rent of 136.5 tillable acres of land that would be conveyed to the County from the Trust. The agreement, which was termed a license agreement, was for a term of ten years. Paragraph 19, Agreement to Use, of the License Agreement states in part: "Under no circumstances shall this Agreement be construed to constitute a lease of any kind or any term." It appears that this was simply called a "License Agreement" instead of a lease so the County might contend it did not have to follow the leasing statutes. The "License Agreement" is referred to as a lease in the October 4, 2010 County Commissioner Minutes. By not following the provisions of Indiana Code 36-1-11-10, the County Commissioners were able to enter into this agreement without holding a public hearing, determining the fair market rental value, receiving competitive bids, and approval of the County Council. The County Commissioners should have followed the leasing provision of Indiana Code 36-1-11-10 as the transaction is a lease of real property interest of the County.

COUNTY COUNCIL
LAGRANGE COUNTY
AUDIT RESULT AND COMMENT
(Continued)

Prior to July 1, 2011, Indiana Code 36-1-11-10 stated:

"(a) A disposing agent may lease property rather than sell, transfer, or exchange it under this chapter only if the disposing agent determines that a lease rather than a sale, transfer, or exchange would be in the best interest of the disposing agent's political subdivision or agency and the public. Except as provided in section 12 of this chapter, the disposing agent must proceed under this section in leasing the property.

(b) The disposing agent shall first have the property appraised in the manner prescribed in section 4(b) of this chapter except that the appraisers shall determine the market rental value of the property.

(c) The disposing agent shall receive bids in the manner prescribed in section 4 of this chapter and lease the property to the highest and best bidder. However, the disposing agent may lease the property for less than ninety percent (90%) of the appraised fair market rental value only after having an additional notice of the lease published in accordance with section 4(c) of this chapter.

(d) The disposing agent shall determine the terms and conditions of any lease under this section, which may include options to renew and options to purchase. The property may not be leased to a person who is ineligible under section 16 of this chapter.

(e) The terms of a lease with option to purchase may provide that all or part of the rental payments under the lease apply to the purchase price. The purchase price must be equal to at least the minimum sale price determined under section 4(f) of this chapter.

(f) Property owned by a political subdivision or agency may be leased for a term longer than three (3) years if the lease is approved by the fiscal body of the political subdivision."

COUNTY COUNCIL
LAGRANGE COUNTY
EXIT CONFERENCE

The contents of this report were discussed on October 11, 2012, with John A. Price, President of County Council; George R. Bachman, President of the Board of County Commissioners; and Kay M. Myers, Auditor.