

IN THE LAKE SUPERIOR COURT
CIVIL DIVISION, ROOM NUMBER 4
SITTING AT GARY, INDIANA

Appellants

CAUSE NO: 45D04-2601-PL-22

Appellees.

FEB 18 2026

Michael A. Brown
CLERK LANE SUPERIOR COURT

COMES NOW the Court following the judicial review hearing of February 17, 2026, and makes the following findings of fact and conclusions of law as set out in this Order:

The case before the court commenced on January 20, 2026, as a Petition for Judicial Review of a municipal designating body’s decision, on the designation of property located in Hobart, Lake County, Indiana as an Economic Revitalization Area (ERA) pursuant to *I.C. 6-1.1-12.1-2.5*.

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The Appellants above captioned were remonstrators at the public hearings held, and allege that the property at issue does not meet the definition of an ERA under *Indiana Code*. The Appellants claim to be aggrieved by the final action taken by the Council. Final action on the ERA designation was taken on January 7, 2026, and as January 19, 2026 was a Federal, State and County holiday, the above captioned case was filed with this court on January 20, 2026. No person or party argued the filing was untimely.

The Appellants argue that the Common Council's decision was arbitrary, capricious, not in accordance with law, and not supported by substantial evidence. Appellants argue that because the land at issue was not properly designated as an ERA, the subsequent tax abatements are invalid. Appellants ask the court to invalidate the January 7, 2026 actions of the Hobart Common Council with respect to the property in question.

Attached with the original Complaint were seven (7) Exhibits¹:

Exhibit 1: Resolution 2026-01,

Exhibit 2: Resolution 2026-02,

Exhibit 3: Resolution 2026-03,

Exhibit 4: Resolution 2026-04,

Exhibit 5: Public Comment, Angelita Soriano, Albina Venegas-Roman, Barbara Koteles and Joseph Conn,

Exhibit 6: January 7, 2026, Good Jobs First Memorandum

Exhibit 7: Soriano Remonstrance

On January 20, 2026, Appellants filed a Notice of Intention to Deposit Funds in Trust in lieu of the bond required by statute. This was followed by a Notice of Deposit. No party to the

¹ An Amended Complaint was filed, but was not received by the court until the scheduled hearing was underway.

action objected to the substitution of a deposit for a bond, and the court finds the substitution unchallenged, and therefore sufficient for the purposes of I.C. 6-1.1-12.1-2.5(d).

On February 2, 2026, Defendant Hobart Common Council filed a Motion for a Status Hearing. On February 2, 2026, the court granted the Motion, and set the matter for a status hearing on the 9th day of February, 2026. A hearing was held virtually that day, and a final hearing date was set by means of a written Order issued that date. As there was some disagreement as to the scope of the “evidence” which is permitted pursuant to I.C. 6-1.1-12.1-2.5, the court permitted a limited window for briefing on the matter. Defendant Common Council of Hobart filed a brief on February 13, 2026 and Appellants filed a Pre-Hearing Brief on February 16, 2026. The entire record of the administrative proceedings was filed on February 13, 2026 as well as Appellants Amended Complaint being filed on February 14, 2026. These documents were not received by the court until the morning of February 17, 2026.

The in-person hearing was held as scheduled on Tuesday February 17, 2026, and was attended by Attorney Dearing for Appellants, Attorneys David Westland, Crandley and McCarthy for Hobart Common Council, Attorneys Todd, Hay, Neibarger for Amazon, and Attorneys DeMare, Miroff and Ochs for Hobart Owner, LLC. Numerous citizens and interested parties attended the hearing, and at all times proper decorum and attentiveness was shown, with appreciation by the court and court staff. The matter was taken under advisement at the conclusion of the hearing and as the matter must be heard and decided within thirty (30) days the court now issues this Order.

Legal Standard for Review

Under the holdings of *Ehrlich v. Starke Solar, LLC*, 219 N.E.3d 749, (Ind. Ct. App. 2023), (trans denied) and *Ehrlich v. Moss Creek Solar, LLC*, 219 N.E. 3d 760 (Ind. Ct. App.

2023) the court's review is limited to the threshold question of standing of landowners in opposition, and whether the land at issue meets the definition of land subject to being declared an ERA. The language of the statute states (d): "the only ground of appeal that the court may hear is whether the proposed project will meet the qualifications of the economic revitalization area law."

Under *Indiana Code 6-1.1-12.1-1*:

(1) "Economic revitalization area" means an area which is within the corporate limits of a city, town, or county which has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property. The term "economic revitalization area" also includes:

(A) any area where a facility or a group of facilities that are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues;

(B) a residually distressed area, except as otherwise provided in this chapter; and

(C) an area of land classified as agricultural land for property tax purposes that, as a condition of being designated an economic revitalization area, will be predominately used for agricultural purposes for a period specified by the designating body....

(5) "Redevelopment" means the construction of new structures, in economic revitalization areas, either: (A) on unimproved real estate; or (B) on real estate upon which a prior existing structure is demolished to allow for a new construction....

(7) "Designating body" means the following: (A) For a county that does not contain a consolidated city, the fiscal body of the county, city, or town....

Under *Indiana Code 6-1.1-12.1-2*:

Sec. 2. (a) A designating body may find that a particular area within its jurisdiction is an economic revitalization area...

That designating body (here Hobart Common Council) must follow the procedures set out by *I.C. 6-1.1-12.1-2.5*, including but not limited to preparing maps, describing the boundaries, passing resolutions, publishing notice, hearing remonstrances and objections, considering evidence, and taking final action.

Under *Indiana Code 2.5 (c)*:

the designating body shall take final action determining whether the qualifications for an economic revitalization area have been met and confirming, modifying and confirming, or rescinding the resolution. This determination is final except that an appeal may be taken and heard as provided under subsections (d) and (e).

The reviewing court's function is different from that of the designating body (Hobart Common Council). The Indiana General Assembly "left it to local elected bodies to determine where development is needed" *Ehrlich v. Stark Solar, LLC.*, 219 N.E.3d 749, 754 (*Ind. Ct. App.* 2023) citing *Orange v. Indiana Bureau of Motor Vehicles*, 92 N.E.3d 1152, 1155 (*Ind. Ct. App.* 2018).

The purpose of an ERA designation is to "encourage equipment installation and new employment opportunities in an area suffering from economic decline." *Knauf Fiber Glass v. State Bd. of Tax Comm'rs*, 629 N.E.2d 959, 962 (*Ind. Tax Ct.* 1994). The Common Council of the City of Hobart is granted by statute, discretion to determine the appropriateness of the request, and Appellants must submit probative evidence that this body abused this discretion or "acted arbitrarily or capriciously." *Mariah Foods LP v. Indiana State Bd. of Tax Com'rs*. 749 N.E.2d 646 649 (*Tax Ct.* 2001). Per the documents submitted with the request for abatement, the project at issue is projected to bring to the City of Hobart an "investment of more than \$11,000,000,000," with "400 permanent full-time positions" as well as "temporary construction positions." Exhibit 2 *Attachment to Form SB-1/R Real Property*.

The court's function is not to replace the designating body's discretion with its own, but to determine if the body entrusted by the General Assembly with making the decision, made that decision based upon substantial evidence which is part of the record. If their decision is

supported by substantial evidence, then by law, it is not arbitrary and capricious. *Id. at 755, citing City of Indianapolis v. Woods, 703 N.E.2d 1087, 1093 (Ind. Ct. App. 1998).*

The decision of a government agency is reviewed, by a court, with great deference on issues of fact and discretion, however, legal conclusions not made in accordance with the law do not receive that same deference. *Cowper v. Collier, 720 N.E. 2d 1250, 1255 (Ind. Ct. App. 1999).* If, however, Appellants fail in their burden to prove that the agency making the decision did not follow the law, the court has no discretion to interfere. *Burcham v. Metropolitan Bd. of Zoning Appeals Div. 1 of Marion County, 883 N.E.2d 204, 213 (Ind. Ct. App. 2008).*

Standing

Before assessing the issue of the economic revitalization area (ERA), the court must first make a determination as to the standing of the parties bringing this action. *Solarize Indiana, Inc. v. S. Ind. Gas & Elect. Co., 182 N.E.3d 212, 216 (Ind. 2022).* In the present case, it is the statute that confers standing upon: “a person who filed a written remonstrance with the designated body under this section and who is aggrieved by the final action taken may ... initiate an appeal of that action” *Ind. Code § 6-1.1-12.1-2.5(d).* To be “aggrieved” means to have a direct injury. *Ehrlich v. Starke Solar, LLC., at 756.* As standing was contested by Appellees, each of the four appellants testified. The Appellants and each of them testified in open court:

Angelita Soriano who resides within visual distance of the property,

Albina Venegas-Roman, who lives across the street from the property,

Barbara Koteleset who lives a quarter mile from the property, and

Joseph Conn who lives 2-3 miles from the property testified.

Joseph Conn and Abina Venegas remonstrated at the December 5, 2025 hearing (Appellees Exhibit 1), Angelita Soriano, and Albina Venegas-Roman remonstrated at the

December 17, 2025 hearing, (Record of Proceedings) and the January 7, 2026 hearing, as did Joseph Conn. Appellants, and each of them, additionally remonstrated in writing. (Exhibit 5, 7, Amended Complaint). Appellants additionally called as an expert witness, realtor Sofia Mason, who testified that the threat of a Data Center in the vicinity has negatively impacted real estate prices and sales. The court now finds that the case may proceed to the second stage, as requisite standing has been found for the Appellants.

ERA

Upon a finding of standing, the court turns to its remaining statutorily granted area of review: does the “proposed project” “meet the qualifications of the economic revitalization area.” Appellees called witnesses as to the current condition of the land at issue:

Mr. Claussen, a former Police Officer and current At Large City Council Member, testified that he has been, off and on again, a member of the Council since 1996 and the property at issue has during that time, no development, no houses, no structures and while several industrial proposals for the land were discussed, nothing materialized. Through Mr. Claussen, Appellees introduced Exhibits 1 (Minutes) and Exhibit 2, Exhibit 2 being a written Future Land Use plan for the City of Hobart. Page 35 of that plan, designates the property at 61st and Colorado (the property at issue) zoned as “Industrial and Employment Center,” which is described as “supporting high technology and service-based activities.”

Appellees also called Brandi Schaeffer, who is employed by Amazon as an Ownership and Land Development specialist, who has a degree in Public Administration and a Masters Degree in Urban Regional Planning, who testified the land at issue is not occupied, not developed, and is primarily used for agriculture as it is in a flood plain with an area of wet lands. The nature of the land, as well as its lack of sewer/water infrastructure, has made development

unsuitable and cost prohibitive for most developers, as the “underground” work would run in the millions, and water issues would limit housing on the property.

Conclusions of Fact and Law

Following the review of all pleadings, and the conclusion of the hearing the court now find and holds that:

The Lake Superior Court, Civil Room Four has subject matter jurisdiction over the general class of proceedings to which this cause of action belongs. The land at issue is located in Hobart, Lake County Indiana.

Appellants have standing to bring this timely filed appeal of an administrative decision, with the exception of *Resolution 2026-04* which approved an Enterprise Information Technology Exemption. This designation does not contain an appeal process. Consequently, the court has no authority to revisit *2026-04* and no part of this Order addresses that Resolution.

Amazon Data Services Inc., filed an application for Tax Abatement with the Hobart Common Council, in an area identified as “Hobart Technology Park” and included a Statement of Benefits/ Real Estate Improvements. The property at issue is owned by Hobart Owner, LLC.

The Hobart Common Council, by Resolution, pursuant to *Indiana Code 6-1.1-12.1 et seq.* found property within the City’s jurisdiction to meet the statutory criteria of an Economic Revitalization Area (ERA). That property is comprised of sixteen parcels, specifically identified as *Schedule 1 with Resolution 2026-01*. That property was deemed by that body suitable for consideration and began the process required by statute.

The land at issue was agricultural, and contains no development or structures, has limited infrastructure, and because of flooding and wet lands, is under-developed. The land is not currently zoned residential, and is zoned Industrial and Employment Center.

The Hobart Common Council, determined that this ERA, allows them to grant real and personal property deductions, such as deductions to assessed value and property tax abatement, in connection with redevelopment activity in the affected undeveloped parcels. The projected improvements to the land, and associated jobs, made the project worth the tax considerations which that body would grant.

On December 3, 2025, December 17, 2025 and January 7, 2026, the Common Council held public meetings, whereby it addressed the issue of designating the parcels as an Economic Revitalization Area, remonstrators were present at the hearing and had submitted objections and remonstrations in writing. At that January 7, 2026 hearing, the Common Council confirmed the Resolutions at issue designating the ERA, and granted the tax abatements by Resolution for that ERA designated property.

The Appellants had the opportunity to address their concerns about the ERA and tax abatement at the December and January hearings. Statutory procedures were followed. Remonstrators were granted due process.

Appellants then sought this appeal and claimed the property at issue does not qualify under the statutory standards for an economic revitalization area, however the Common Council determined the property at issue satisfies the statutory definition as it is set forth in I.C. 6-1.1-12.1-1. Under statute, Appellants have the burden to show the land does not meet the definition.

The court finds the land at issue is vacant farm land, and the statute at issue was amended by the General Assembly in 2022 to add language to specifically include agricultural land, used for agricultural purposes. The Hobart Council acted within its discretion to determine that the property at issue is unimproved, and undeveloped, and the current project is the only current and likely opportunity for development. The Hobart Common Council's determination that the real

estate at issue is correctly the sort of property contemplated by an economic revitalization area, is supported by substantial evidence in the record (record of proceedings).

The terms development, occupancy, developments and growth in the ERA statute are given their plain meaning. *Town of Brownsburg v. Fight Against Brownsburg Annexation*. 124 N.E.3d 597, 605 (Ind. 2019). Under the plain meaning, the property is vacant and undeveloped.

An administrative action is arbitrary and capricious if it is “willful and unreasonable, without consideration and in disregard of the facts and circumstances of the case, or without some basis that would lead a reasonable and honest person to the same conclusion.” *Rice v. Allen County Plan Com’n*, 852 N.E. 2d 591, 597 (Ind. Ct. App. 2006).

In regards to evidence presented, “evidence is substantial if it is more than a scintilla and less than a preponderance.” *Id. citing S & S Enters., Inc. v. Marion County Bd. of Zoning Appeals*, 788 N.E.2d 485, 491 (Ind.Ct.App.2003). Evidence must be more than speculation or conjecture and must be “relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Id. citing Ind. Alcoholic Beverage Comm’n v. River Road Lounge, Inc.*, 590 N.E.2d 656, 659 (Ind.Ct.App.1992). Here, the record of proceedings is quite lengthy and reaches the evidentiary standard required. The municipal entity has weighed the proposed benefits to the community from this development, against any possible adverse outcomes, and has made its determination as permitted by law. The court is not permitted to substitute its own judgment when the record reflects a decision made by the appropriate body, in the appropriate manner, supported by substantial evidence.

Appellants have failed to meet their burden under the statute to set it aside.

The Appellants’ challenge fails.

WHEREFORE, it is hereby ORDERED, ADJUDGED and DECREED that Appellants Petition for Judicial Review and for an Entry of an ORDER reversing the above listed Resolutions of the Hobart Common Council is DENIED. The actions of the Hobart Common Council in designating an ERA and approving a Tax Abatement, by means of written Resolutions approved at public meetings, is hereby CONFIRMED. This is a final appealable Order and no cause for delay exists. The Court provides service of this order via email to all counsel of record pursuant to *Trial Rules 3.1(A)(4) and 72(D)*.

SO ORDERED this 18th day of February, 2026



Kristina Kantar, Judge
Lake Superior Court, Room Four

Distribution:

All parties of record