

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-4-00797
Petitioner: Renaissance Association I
Respondent: The Department of Local Government Finance
Parcel #: 007-26-37-0119-0025
Assessment Year: 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held on February 3, 2004. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property was \$5,762,000 and notified the Petitioner on April 1, 2004. Subsequent to this determination, the Petitioner filed a Form 133 on April 27, 2004, in regards to the percentage of brick and frame construction and unit finish. The DLGF and Petitioner agreed to certain changes in the assessment in consideration of these issues which resulted in a change of the valuation of the improvements on the subject property from \$5,199,800 to \$4,075,600 for the assessment year of 2002. Thus, the final determination of value, as determined by the DLGF, is \$4,637,800.¹
2. The Petitioner filed a Form 139L on April 27, 2004.
3. The Board issued a notice of hearing to the parties dated June 20, 2005.
4. Special Master Kathy J. Clark held a hearing at 2:00 p.m. on September 6, 2005, in Crown Point, Indiana.

¹ Respondent Exhibit 1 contains detailed paperwork concerning this DLGF determination. Further, the value under appeal at this hearing (\$4,637,800) was agreed to by Mr. Hendrickson (Petitioner's Attorney) and Mr. Hemming (DLGF). However, the original Form 133 was not presented at this hearing and no legal notice of the DLGF determination was offered by either party at this hearing.

Facts

5. The subject property is located at 438-524 Michigan Street, Hammond, in North Township.
6. The subject property consists of twelve, two-story, brick, commercial apartment buildings.
7. The Special Master did not conduct an on-site visit of the property.
8. The DLGF determined the assessed value of the subject property to be \$562,200 for the land and \$4,075,600 for the improvements, for a total assessed value of \$4,637,800.
9. The Petitioner did not request a specific assessed value.
10. David G. Cook, President of Appraisal Management Research Co., Sanford Ross, the manager of Renaissance Tower, Jack Catt, the building engineer for Renaissance Tower, and James S. Hemming, representing the DLGF, appeared at the hearing and were sworn as witnesses. Thomas A. Hendrickson, Attorney, represented the Petitioner at the hearing.

Issue

11. Summary of Petitioner's contentions in support of an error in the assessment:
 - a. The Petitioner contends that specific design and construction items qualify the subject buildings as D-1 grade. *Petitioner Exhibits 1, 2, and 4; Hendrickson testimony; Cook testimony.* According to the Petitioner, D-1 (70%) is a grade 20% less than the D+2 (90%) grade currently assigned. *Id.*
 - b. The Petitioner argues that the buildings are of a plain architectural style and are slab-on-grade construction. *Petitioner Exhibits 1, 2, and 4; Hendrickson testimony; Cook testimony.* Further, the interior stairways are unenclosed, steel frame with open risers and the entries are narrow and there are no common areas or common rooms. *Id.* The windows are all single pane glass and the heating systems are controlled by a single thermostat, there are no individual thermostats in the units, and the heat source is perimeter hot water. *Id.* In addition, the Petitioner alleged, there is no HVAC ductwork in place and there is no ability to upgrade to a central warm air or air conditioning system due to lack of space. *Id.* The only lighting in the buildings is fluorescent; there is no incandescent lighting anywhere. Further, there is no carpet anywhere in the buildings, all flooring, even that in the individual units, is the original asphalt asbestos tile installed in the 1970s except for roughly 9% of the total flooring which has been replaced with vinyl tile. *Id.* Finally, according to the Petitioner, the kitchens have old sheet metal cabinets; there are no dishwashers in the units; and there is only one washer and dryer for every eight units. *Id.* The Petitioner argues that these apartments are limited to low-income housing rentals. *Hendrickson*

- testimony*. They are no-frill, basic apartments designed and built to meet the needs of those who require basic shelter only. *Hendrickson testimony*. In support of this contention, the Petitioner submitted its “Statement of Thomas Hendrickson;” “Statement of David Cook;” and photographs of the subject property. *Petitioner Exhibits 1, 2 and 4*.
- c. The Petitioner also argues that the grade established for the buildings in the 1989 and 1995 reassessments was D-1 (70%). *Petitioner Exhibit 1, pg 5; Hendrickson testimony*. According to the Petitioner, there was no basis for a grade change. The Petitioner argued that DLGF in the Board’s printed Question and Answer #69 dated July 22, 1994, stated that between reassessments even a “major remodeling would rarely cause a grade change.” An example was given of the replacement of an asphalt shingle roof with shake shingles having a greater reproduction cost, as warranting a change in grade. *Petitioner Exhibit 1, pg 3, final paragraph; Hendrickson testimony*. Further, the Petitioner contends, the General Commercial Residential (GCR) grading standards have remained substantially the same in the 1989, 1995 and 2002 state reassessment guidelines. Thus, the Petitioner argues, the D-1 (70%) grade established for 1989 and 1995 should also be applied for 2002. *Petitioner Exhibits 1 and 2; Hendrickson testimony; Cook testimony*. In support of this contention, the Petitioner submitted documents from a 1990 tax appeal. *Petitioner Exhibit 3*.
12. Summary of Respondent’s contentions in support of the assessment:
- a. The Respondent contends that the grade of D+2 is correct. *Hemming testimony*. According to the Respondent, the drawing on the back of the subject property’s property record card (the PRC) represents the “footprint” of one of the twelve identical buildings. *Respondent Exhibit 1*. The Respondent argues that each “cut” or turn made in the foundation from a straight rectangular form is an architectural design or style feature. The Respondent argues that each time a backhoe turns it adds labor costs to construction. *Respondent Exhibit 4; Hemming testimony*. In addition, the Respondent argues that slab-on-grade construction is common in commercial apartment buildings constructed in the style of the subject property. *Respondent Exhibit 4; Hemming testimony*. According to the Respondent, slab on grade construction is considered part of the GCR average or C grade model. *Id.*
- b. The Respondent admitted that according to Appendix D, GCR Basic Shell Components, a C grade model should contain 85% carpet with pad and 15% vinyl composition tile. However, the Respondent testified that Schedule C (Appendix G) lists the per square foot cost of the C model carpet/pad/tile mix at \$2.45; whereas the Unit Cost Adjustment schedule values asphalt tile at \$1.60 per square foot. Thus, according to the Respondent, the construction cost difference between the two materials is only \$.85 per square foot. Extending this adjustment to the total square footage of all buildings would account for only 2.4% of the total building costs. *Respondent Exhibit 4; Hemming testimony*. Further, according to the Respondent, Schedule C lists the range for adjustments to the lighting as being from \$.25 per square foot to \$.60 per square foot. Allowing for the lowest minimal lighting, the

Respondent argues, the adjustment would account for barely 1% of the total construction costs. *Respondent Exhibit 4; Hemming testimony*. Thus, according to the Respondent, the combined total of adjustments that could be made for flooring and lighting per the Petitioner's contentions would be no more than 3% lower than the costs considered in the C grade, GCR model.

- c. Finally, the Respondent contends that the current grade of D+2 is allowing a 10% negative adjustment to the C model. *Respondent Exhibit 4; Hemming testimony*. Therefore, according to the Respondent, the current assessment already considers the lower quality lighting and flooring and the additional 7% deduction accounts for the remaining issues raised by the Petitioner.

Record

13. The official record for this matter is made up of the following:
 - a. The Petition,
 - b. The tape recording of the hearing labeled Lake County Tape 1851 (Tape 1) and Lake County 1852 (Tape 2),
 - c. Exhibits:
 - Petitioner Exhibit 1: Written statement of Thomas Hendrickson,
 - Petitioner Exhibit 2: Written statement of David Cook,
 - Petitioner Exhibit 3: 1990 tax case documents,
 - Petitioner Exhibit 4: Photographs,
 - Petitioner Exhibit 5: Request for Admissions,

 - Respondent Exhibit 1: Subject property PRC,
 - Respondent Exhibit 2: Subject property photograph,²
 - Respondent Exhibit 3: Incremental/Decremental Land Summary,
 - Respondent Exhibit 4: 2002 Real Property Assessment Guideline Pages 32 & 33 (GCR Apartment Model),

 - Board Exhibit A: Form 139L,
 - Board Exhibit B: Notice of Hearing,
 - Board Exhibit C: Hearing Sign in Sheet,
 - d. These Findings and Conclusions.

² Both parties agreed during the hearing that the photograph submitted as Respondent Exhibit 2 is not of the buildings under appeal but of a different parcel and set of buildings.

Analysis

14. The most applicable governing cases are:
- a. A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
 - b. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board . . . through every element of the analysis”).
 - c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
15. The Petitioner provided sufficient evidence to establish a prima facie case. This conclusion was determined due to the following:

Grade/Components

- a. The Petitioner contends that the buildings’ construction components are more indicative of an “E” grade than a “D” grade. Therefore, the Petitioner argues, the current grade of D+2 should be changed to D-1.³ In support of this contention the Petitioner presented the testimony of Mr. Cook, Mr. Hendrickson, and interior and exterior photographs. *Petitioner Exhibits 1, 2 & 4; Cook testimony; Hendrickson testimony.*
- b. Grade is the “classification of an improvement based on certain construction specifications, design and quality of materials and workmanship.” REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002-VERSION A, glossary at 9 (incorporated by

³ The Petitioner also contends that the subject buildings should be graded D-1 based on the property’s 1989 and 1995 assessments. *Petitioner Exhibits 1-3; Cook testimony; Hendrickson testimony.* However, the Petitioner is mistaken in its contention that the assessment should be the same as in previous assessments. In original tax appeals, each assessment and each tax year stand alone. *Fleet Supply, Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 645, 650 (Ind. Tax Ct. 2001) (citing *Glass Wholesalers, Inc. v. State Bd. of Tax Comm'rs*, 568 N.E.2d 1116, 1124 (Ind. Tax Ct. 1991)). Thus, evidence as to a property’s assessment in one tax year is not probative of its true tax value in a different tax year. *See, Id.*

- reference at 50 IAC 2.3-1-2). The GUIDELINES identify six components commonly considered when assigning grade for commercial and industrial structures: 1) general; 2) interior finish; 3) built-in features; 4) lighting and plumbing; 5) climate control system; and 6) design. *Id.*, Appendix E, Table E-3, p. 8. Some improvements, however “may have construction characteristics that deviate from the base quality grade specifications.” *Id.*, Appendix E at 5. To assign a grade to these structures, an assessor “must weigh the components that deviate from the base quality grade selected for the subject to determine whether an intermediate quality grade ... is appropriate.” *Id.* Thus, a quality grade of “+2” indicates a quality that falls halfway between two full grades. *Id.* Whereas, a quality grade of “-1” indicates a quality grade slightly lower than the full quality grade immediately above it. *Id.* at 6.
- c. The subject property is currently graded a D+2. A quality grade of D+2 indicates that the overall construction quality is halfway between “C” and “D”. A D+2 structure has a grade factor of 90%, meaning that the assessor has determined that the construction quality of the improvement has caused its cost new to be 10% lower than those given in the cost schedules in this manual. Here, the Petitioner requested a grade of D-1. A D-1 structure is slightly lower than a D structure. A grade of D-1 has a grade factor of 70% or, stated another way, has an overall construction quality that is one quarter of the way between a D grade (80%) and an E grade (40%).
- d. In support of its contention that the improvements on the subject property are D-1 grade structures, the Petitioner submitted its “Statement of Thomas Hendrickson.”⁴ *Petitioner Exhibit 1*. Mr. Hendrickson testified that the buildings on the subject property were built according to public housing specifications in 1970 and lack the amenities of commercial apartment buildings built in the past 35 years. *Id.*; *Hendrickson testimony*. According to the Mr. Hendrickson, the buildings have slab foundations and the walk up to the second floor units is a steel stairway having open risers. *Id.* In addition, the entries are narrow and there are no common areas or storage areas. *Id.* Further, there are no playgrounds and there is little open area because the parking lots and buildings occupy more than fifty percent of the subject property. *Id.*
- e. Mr. Hendrickson also testified that the flooring is asphalt asbestos tile originally installed in 1970 except for an estimated 9% of floor area that has been replaced with vinyl tile where the original tile has worn away. *Petitioner Exhibit 1*; *Hendrickson testimony*. According to Mr. Hendrickson, the buildings have no carpeting anywhere. *Id.* Thus, he concludes, the flooring is far below average as determined by the GCR model which calls for 85% carpet and pad and 15% vinyl composition tile. *Id.*
- f. Further, Mr. Hendrickson testified, the kitchens have old sheet metal cabinets and there are no automatic dishwashers. *Petitioner Exhibit 1*. According to Mr. Hendrickson, the ceilings are simply painted drywall nailed to the joists above and the

⁴ Mr. Hendrickson is the Petitioner’s attorney. He is also trained as a Level I/II assessor-appraiser although his certification has lapsed. See *Petitioner Exhibit 1*; *Hendrickson testimony*.

- walls and ceilings of all apartments are painted throughout in a single neutral color. *Id.* Similarly, all windows are the original uninsulated single pane variety. *Id.* Thus, Mr. Hendrickson argues, the “interior finish” is closer to “E Grade” (unfinished) than “D Grade” (moderate quality). *Id.* In addition, Mr. Hendrickson testified that the lighting is inexpensive fluorescent. *Petitioner Exhibit 1.* Again, Mr. Hendrickson argues, this fits the “minimal of low quality” standard for “E Grade.” *Id.*
- g. Mr. Hendrickson also testified that apartment heat is provided by perimeter hot water. *Petitioner Exhibit 1.* According to Mr. Hendrickson, the GCR model requires forced air heating. *Id.* Further, Mr. Hendrickson testified that there are no thermostats in the apartments. *Hendrickson testimony.* According to Mr. Hendrickson, the way a tenant adjusts the temperature in a unit is by opening a window. *Id.* Additionally, Mr. Hendrickson testified, there is no air conditioning and the installation of a central air conditioning system is not functionally possible due to the structures’ lack of room for ductwork. *Petitioner Exhibit 1.* Thus, Mr. Hendrickson alleges, the structures match the “low quality or none” standard for “climate control systems” for an “E Grade.” *Id.*; *Hendrickson testimony.*
- h. In addition, the Petitioner submitted its “Statement of David G. Cook,” president of Appraisal Management Research Company, who also related the features of the improvements on the subject property to the grade specifications and determined that the “grade of the buildings most closely resembles a grade of slightly under D according [to] the Real Property Assessment Guideline for 2002 – Version A.” *Petitioner Exhibit 2.* At the hearing, Mr. Cook testified that he had inspected the subject property and it was his opinion that the improvements are D-1 grade structures. *Cook testimony.*
- i. Mr. Cook contends that the buildings are “devoid of any architectural detail” and were “constructed at the lowest possible cost but meets minimum costs” because the subject improvements are plain buildings, built on slabs, with open steel stairways, no carpeting and inexpensive single pane windows. *Petitioner Exhibit 2.* Mr. Cook alleges this is between a D and an E grade. *Id.* Mr. Cook testified that the buildings were “plain” buildings with almost no architectural detail. *Cook testimony.* Further, according to Mr. Cook, the slab construction is inexpensive and can be cold under foot. *Id.* Mr. Cook also alleges that the buildings were “built from stock plans” with “no architectural treatment.” *Petitioner Exhibit 2.* Thus, according to Mr. Cook the design is D grade. *Id.*
- j. Mr. Cook similarly argues that the interior finish is of D grade (moderate quality). *Petitioner Exhibit 2.* According to Mr. Cook, the apartments are mostly asphalt tile and there is no carpet and pad anywhere in the buildings. *Id.* Mr. Cook contends that asphalt tile is less expensive and of lower quality than vinyl composition tile or carpet and pad. *Id.* Mr. Cook testified that the 2002 Guidelines call for 85% carpet and pad and 15% vinyl composition. *Cook testimony.* In addition, the walls and ceilings are all painted the same semi-gloss paint color and the cabinetry is cheap metal which has simply been painted over year after year. *Id.* Further, because the kitchen cabinets

- are cheap metal cabinets, Mr. Cook alleges that the built-in features are “minimal” which falls within the D grade. *Id.* Mr. Cook also contends that the lighting and plumbing fall between a D grade (moderate quality) to and E grade (minimal of low quality). *Petitioner Exhibit 2.* Finally, according to Mr. Cook, climate control falls between moderate quality heating (D grade) to low quality (E grade) because heat is not uniform throughout the building. *Id.*
- k. The Petitioner also submitted photographs to support its allegations. *Petitioner Exhibit 4.* These included pictures of the open steel stairway, asphalt tiling, metal cabinets in the kitchens, single pane windows, and plumbing fixtures.⁵ *Id.* Mr. Cook testified that the apartments have inexpensive metal closet doors and the bathroom sinks are unenclosed. *Cook testimony.* According to Mr. Cook, this is typical of a lower grade structure. *Id.* The Petitioner also provided exterior photographs of one of the buildings and a building entry. *Petitioner Exhibit 4.* According to Mr. Cook, the exterior pictures show that the building is a “plain” building and the windows must have a bar in them for security purposes. *Cook testimony.*
- l. Based upon the testimony and written statements of the Petitioner’s witnesses and the photographs submitted by the Petitioner, the Board finds that the Petitioner has presented sufficient evidence to establish a prima facie case that the construction materials and design quality of the subject buildings are of D-1 grade.
- m. Once the Petitioner establishes a prima facie case, the burden shifts to the Respondent to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). Here, the Respondent submitted the subject property’s property record card; a photograph of the subject property; an incremental/decremental land summary and copies of the GUIDELINES, pages 32 and 33 regarding the GCR apartment model. According to the Respondent, the structures are currently graded a D+2 which is a ninety percent multiplier. *Hemming testimony.*
- n. In response to Petitioner’s case, the Respondent testified that the Petitioner is not being charged for any playground or amenities. *Hemming testimony.* Further, according to the Respondent, the buildings are not “rectangles.” *Id.* Therefore, the Respondent alleges, the buildings are not “devoid of architectural treatment” because every time a corner is cut, it adds cost. *Id.* In addition, according to the Respondent, a slab floor is “average” in the model. *Id.*
- o. The Respondent admits that the structures’ asbestos flooring is below average flooring. *Hemming testimony.* However, according to the Respondent, the difference between carpet and asbestos flooring under the cost guidelines is only 2.4% of the base building cost at C grade. *Id.* In addition, according to the Respondent, the

⁵ Mr. Cook testified that the pictures were all taken in a single unit. *Id.* However, Petitioner’s witnesses Mr. Ross and Mr. Catt confirmed that they were representative of all of the units on the subject property. *Ross and Catt testimony.*

- model calls for lighting that is “low to average cost installation typical for occupancy.” *Id.* Thus, the Respondent argues, “minimal” lighting is only 1.4% of the base building cost. *Id.* Together, these issues only account for three or four percent of the base building cost. *Id.*
- p. The Respondent argues that the subject property’s D+2 grade provides a ten percent deduction. *Hemming testimony.* Thus, according to the Respondent, the low grade lighting and flooring has already been taken into consideration. *Id.* Further, the Respondent contends, the additional six or seven percent deduction on the assessment can be seen as addressing the remaining components that the Petitioner alleges are below average grade. *Id.*
- q. Based on the arguments of the parties, we find that the weight of the evidence supports a finding of a D-1 grade for the improvements on the subject property. Although the Respondent argued that a slab floor was “average” and that the property was not “devoid of architectural treatment,” the Respondent did not address the perimeter hot water heating, the units’ lack of thermostat and the inconsistent unit temperatures. Similarly, the Respondent failed to address the unenclosed metal staircase, and the single pane windows, metal kitchen cabinets and lack of bathroom cabinetry in the apartments. Finally, the Respondent admitted that the structures had below average flooring and lighting. While the Respondent alleges that all of Petitioner’s issues were taken into account in the D+2 grade, it is the Respondent’s duty to walk the Board through every element of its analysis. *See, e.g., Fidelity Federal Savings & Loan v. Jennings County Assessor*, 836 N.E.2d 1075, 1082 Tax Ct. 2005) (“[I]t is the taxpayer’s duty to walk the [Indiana Board and this] Court through every element of [its] analysis.” *See, e.g., Clark v. Dep’t of Local Gov’t Fin.*, 779 N.E.2d 1277, 1282 n.4 (Ind. Tax Ct. 2002). ... These standards are no less applicable to assessing officials when they attempt to rebut a prima facie case.”). Here, except for the lighting and flooring, the Respondent failed to explain how the design and material deficiencies alleged by the Petitioner were addressed in the assessment. Thus, we find that the Respondent has failed to rebut or impeach Petitioner’s evidence.
- r. The Board recognizes that the Petitioner failed to present any market value evidence in support of its grade adjustment. However, the Board finds that because grade has its own value associated with each particular grade designation, the Petitioner need not prove the market value of any change in the assessment. We acknowledge that the Indiana Tax Court in *Eckerling v. Wayne Township Assessor*, has held that simply raising an argument for a strict application of the GUIDELINES is insufficient to rebut the presumption that an assessment is correct and has determined that a Petitioner must present market evidence to show that an assessment is not a reasonable measure of the property’s true tax value. *841 N.E.2d 764 (Ind. Tax Ct. 2006)* (“Therefore, when a taxpayer chooses to challenge an assessment, he or she must show that the assessor’s assessed value does not accurately reflect the property’s market value-in-use. Strict application of the regulations is not enough to rebut the presumption that the assessment is correct.”) However, grade is an assessment measure that has a

specific value. To hold that a Petitioner must prove not only that the grade is incorrect, but what the market value of that grade adjustment would be, places an undue burden on a Petitioner.⁶ Taken to its extreme, this argument would preclude a Petitioner from proving any error in its assessment.⁷ We do not believe that the Indiana Tax Court in *Eckerling* intended such a result.

Conclusion

15. The Petitioner raised a prima facie case that the grade on the subject structures was incorrect. The Respondent failed to impeach or rebut this evidence. Therefore, we find in favor of the Petitioner and hold that the grade of the subject improvements is D-1.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: March 21, 2006

Commissioner,
Indiana Board of Tax Review

⁶ This is particularly true for low income homeowners. Many such homeowners appear *pro se* seeking to show that their home is in poor condition and that their assessment does not fairly reflect the condition or the grade of their home. To rule that a homeowner can only succeed in an appeal if the homeowner presents market evidence (which typically is only sufficiently proven by an appraisal prepared by a certified appraiser) effectively precludes review because of the cost of an appraisal. Thus, such an interpretation would deny many homeowners a meaningful review of what may, in fact, be an unfair assessment for such a homeowner.

⁷ For example, if a homeowner appeals on the basis that his property was measured incorrectly or she was assessed for two bathrooms, yet the subject dwelling only has a single bathroom. It unduly burdens the property owner's right to a fair and just assessment to require the property owner to purchase an appraisal to correct such obvious errors in the details of the assessment that can be overlooked by our mass appraisal system.

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code § 4-21.5-5-7(b)(4), § 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>, The Indiana Trial Rules are available on the Internet at http://www.in.gov/judiciary/rules/trial_proc/index.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.