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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

JORGE GARCIA d/b/a	)	Petition No.: 45-024-02-3-7-00188
STREADER’S SERVICE,	)	
	)	
Petitioner,	)	
	)	
v.	)	County: Lake
	)	
LAKE COUNTY	)	Township: North
PROPERTY TAX ASSESSMENT	)	
BOARD OF APPEALS,	)	Parcel No.: 24-325125
	)	
Respondent.	)	Assessment Year: 2002
	)	

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Appeal from the Final Determination of  
Lake County Property Tax Assessment Board of Appeals

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**ORDER OF DISMISSAL**

Jorge Garcia d/b/a Streader’s Service (Petitioner) filed a Form 133, Petition for Correction of an Error, to the Indiana Board of Tax Review (Board) on January 14, 2005. The Petitioner contends “this valuation is incorrect and ridiculous.” The Petitioner further contends “this property should be assessed at \$1,920.00 not \$50,000.” *Form 133, Section VI.*

**HISTORY**

The Petitioner did not file a Form 103, Business Tangible Personal Property Return, for the March 1, 2002, assessment date. On July 25, 2002, the township assessor sent the Petitioner a Form 113/PP, Notice of Assessment/Change (By An Assessing Official). The township assessor estimated the Petitioner’s assessment to be \$50,000. The township assessor shows the

reason for action as “Failure to file required assessment return. You have the right to file an assessment return within 30 days of the first notice. (IC 6-1.1-3-15)”

The Petitioner did nothing until filing a Form 133 petition on July 27, 2004; approximately two years after the township assessor sent the Form 113.

### **APPEAL PROCEDURES**

The Petitioner is attempting to appeal the action of the township assessor. Ind. Code § 6-1.1-15-1 clearly states if the taxpayer does not agree with the action of the township assessor, the Property Tax Assessment Board of Appeals (PTABOA) will review the action if a petition is filed within forty-five days of the notice. This law, in fact, is printed at the top of the Form 113/PP, which describes the township assessor’s action the Petitioner is appealing. On the Form 113/PP, taxpayers are informed “[i]f you do not agree with the action the County Property Tax Assessment Board of Appeals will review that action if you file a petition with the County Assessor of this county within forty-five (45) days of this notice. IC 6-1.1-15-1.”

The Petitioner did not file a petition within forty-five (45) days of the notice of assessment and missed the opportunity to appeal pursuant to Ind. Code § 6-1.1-15-1.

Instead, the Petitioner filed a Form 133 petition to appeal the action of the township assessor. Only specific types of errors are correctable using the Form 133 petition. The errors correctable on the Form 133 petition are: the taxes, as a matter of law, are illegal; there was a mathematical error in computing the assessment; and, through error or omission by any state or county officer the taxpayer was not given credit for an exemption or deduction permitted by law. The procedures for the Form 133 petition are described in Ind. Code § 6-1.1-15-12.

Furthermore, the Form 133 petition is available only for those errors that can be corrected without resort to subjective judgment. *Hatcher v. State Board of Tax Commissioners*, 561 N.E. 2d 852 (Ind. Tax 1990); *Reams v. State Board of Tax Commissioners*, 620 N.E. 2d 758 (Ind. Tax 1993).

The error described by the Petitioner, “this valuation is incorrect,” is not correctable on a Form 133 petition. On the Form 133 petition, the Petitioner checked the box saying there was a mathematical error in computing the assessment. However, the township assessor estimated the assessment; there were no mathematical calculations in computing the assessment.

## FAILURE TO FOLLOW STATUTORY PROCEDURE

Because the legislature has created specific appeal procedures for challenging assessments, the taxpayer must comply with the statutory requirements for filing the proper petitions within a timely manner. *Williams Indus. v. State Bd. of Tax Comm'rs*, 648 N.E.2d 713, 718 (Ind. Tax 1995); *Reams v. State Bd. of Tax Comm'rs*, 620 N.E.2d 758, 760-761 (Ind. Tax 1993).

The Board cannot any grant relief on the above-referenced petitions because Petitioner has failed to follow the procedures set forth in Ind. Code § 6-1.1-15-1. The Form 133 and Ind. Code § 6-1.1-15-12 do not apply to the error described.

The above referenced petition is hereby dismissed for failure to follow statutory procedure.

So ORDERED this \_\_\_\_ day of \_\_\_\_\_ 2005.

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Commissioner  
Indiana Board of Tax Review

### 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.