

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #s: 45-026-02-1-5-00076
45-026-02-1-5-00077
45-026-02-1-5-00078
45-026-02-1-5-00079

Petitioners: Thomas A. & Judith Surovek

Respondent: Department of Local Government Finance

Parcel #s: 007-26-36-0412-0009
007-26-36-0412-0008
007-26-36-0412-0007
007-26-36-0412-0010

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 December 1, 2003 in Lake County, Indiana. The Department of Local Government Finance (the DLGF) determined the Petitioners' property tax assessment for the subject properties and notified the Petitioners on March 31, 2004.
2. The Petitioners filed the Form 139L petitions on April 12, 2004.
3. The Board issued notices of hearing to the parties dated February 7, 2005.
4. The hearing was scheduled for March 9, 2005, at 10:30 a.m., before Special Master Joan Rennick in Crown Point, Indiana.
5. On March 9, 2005, prior to the scheduled hearing, the Petitioners and DLGF met and stipulated to assessed values for the four parcels on appeal.
6. By letter dated March 9, 2005, Mr. Thomas Surovek stated he felt intimidated into stipulating to values for his properties. Mr. Surovek further indicated, in a letter dated

February 15, 2005, that he had requested information from the DLGF, and that the request for information was ignored.

7. On March 15, 2005, Mr. Terry G. Duga, Commissioner, Indiana Board of Tax Review, issued an Order to the DLGF to show cause why the stipulation agreements entered into by the parties should not be vacated and to show cause why the DLGF did not comply with the Petitioners' request for discovery.
8. On March 30, 2005, Nandita G. Shepherd, Counsel for the DLGF, filed a Motion to Withdraw Department of Local Government Finance's Stipulated Agreements and request that Mr. Surovek pursue discovery by the proper form, and by the Indiana Rules of Trial Procedure.
9. On March 31, 2005, Mr. Terry G. Duga issued an Order to the DLGF to provide the Petitioners with documents in their possession in response to the Petitioners' request for discovery letter, dated February 15, 2005. Mr. Duga also ordered the stipulation agreements entered into by the parties on March 9, 2005 to be vacated and the matter be set for hearing.
10. The Board re-issued notices of hearing to the parties dated March 31, 2005.
11. On March 31, 2005, Nandita G. Shepherd filed a Response to Indiana Board of Tax Review's Order, whereby the DLGF indicated that they had provided the Petitioners with all documents in their possession on Land Valuation and Neighborhood Factor Calculations.
12. By letter dated April 21, 2005, Mr. Surovek stated that the DLGF failed to provide specific information requested in his request for discovery.
13. On April 26, 2005, Mr. Terry G. Duga issued an Order whereby it was acknowledged that the DLGF had provided the Petitioners with all documents in its possession, thereby satisfying the Board's Order issued on March 31, 2005. It further stated that "[t]o the extent that Mr. Surovek's letter of April 21, 2005, requests further relief, that request is denied."
14. By letter dated April 26, 2005, Mr. Surovek requested a status conference on the request for discovery with Ms. Melissa Henson, Commissioner for the DLGF.
15. By letter dated April 27, 2005, Mr. Surovek requested a response from Ms. Henson on the reason his request for a status conference on his request for discovery was being denied.
16. Special Master Dalene McMillen held the hearing on May 3, 2005, at 1:00 p.m. in Crown Point, Indiana.

Facts

17. The subject properties are located on 7322 and 7326 Olcott Avenue, Hammond, North Township, in Lake County.
18. The subject properties are three vacant land parcels, and the fourth parcel is a one-story frame dwelling with a finished attic, built in 1930.
19. The Special Master did not conduct an on-site visit of the property.
20. The assessed value of the subject property

As determined by the DLGF:

Petition #45-026-02-1-5-00076

Land: \$7900 Improvements: -0-

Petition #45-026-02-1-5-00077

Land: \$7900 Improvements: -0-

Petition #45-026-02-1-5-00078

Land: \$24,800 Improvements: \$101,600

Petition #45-026-02-1-5-00079

Land: \$2500 Improvements: -0-

As requested by the Petitioners:

Petition #45-026-02-1-5-00076

Land: \$6990 Improvements: -0-

Petition #45-026-02-1-5-00077

Land: \$6990 Improvements: -0-

Petition #45-026-02-1-5-00078

Land: \$16,170 Improvements: \$50,560

Petition #45-026-02-1-5-00079

Land: \$2190 Improvements: -0-

21. The following persons were present and sworn in at the hearing:

For Petitioners: Michael L. White, Taxpayer Representative
Judith Surovek, Owner

For Respondent: James S. Hemming, Assessor/Auditor, DLGF

Issues

22. Summary of Petitioners' contentions in support of an alleged error in the assessment:

- a. The assessed values exceed the 1999 market values of the subject properties. *White argument.*
- b. The Petitioners submitted copies of stipulation agreements dated March 9, 2005, to show the Petitioners and DLGF had previously agreed to a total assessed value of \$101,500 on the four parcels under appeal. *Petitioner Exhibit 2; White testimony.* The Petitioners are requesting that the value agreed upon on March 9, 2005, of \$101,500 be reinstated. *White testimony.*
- c. The Petitioners originally requested the stipulation agreements be withdrawn because they were concerned that the land values of the subject properties were not properly calculated. *Id.*
- d. The Petitioners submitted a summary appraisal prepared by Robert D. Tracy, Capital Appraisal Company, Inc. *Petitioner Exhibit 4-A.* Mr. Tracy is a certified appraiser. *Id.* The summary appraisal is dated October 12, 2004, and estimates the value at \$128,000 for the four parcels under appeal. *Id.* The appraisal was performed for the purpose of establishing the market value of the fee simple interest in the properties. *Id.*
- e. To establish the January 1999 market value of the subject properties, a time weighted factor supplied by the DLGF would be applied to the \$128,000 appraised value, resulting in a January 1, 1999, value of \$101,500. *Petitioner Exhibit 3-A; White testimony.*
- f. The Petitioners indicated that there were numerous errors on the property record card (petition #45-026-02-1-5-0078), and that when corrected this would lower the assessed value on the subject dwelling. *White testimony.* Those errors are as follows: (1) correct base living area from 1,142 square feet to 1,014 square feet, (2) correct finished living area in the attic from 1,142 square feet to 432 square feet, and (3) correct basement square footage from 1,142 to 1,014. *Petitioner Exhibit 6-A.*¹

¹ At the hearing, Mr. White testified that the first floor base area as recorded on the property record card is correct at 1,142 square feet, and that the finished area of the attic is 447 square feet.

- g. Based on the information found in VERSION A-REAL PROPERTY ASSESSMENT GUIDELINE, appendix A, the grade and design of the subject dwelling should be reduced from “C+1” to “C-2” or “D+2”. *Petitioner Exhibit 6-A; White testimony.*
 - h. The land value is overstated. *White argument.* According to the Residential Neighborhood Valuation Form the land value ratio is 22% +/- of the market value of the subject property. *Id.* Therefore, if the market value of the subject property as of January 1999 is \$101,500, the land for the four parcels under appeal should be \$22,300 or \$223 per front foot. *Id; Petitioner Exhibit 6-A at 5.*
 - i. The use of an incorrect land value also created an inappropriate neighborhood factor of 1.38. *White argument; Petitioner Exhibit 6-A at 4.*
23. Summary of Respondent’s contentions in support of assessment:
- a. The subject properties are correctly assessed at \$43,100 for the four parcels of land, and \$101,600 for the improvements, for an overall assessed value on the four parcels of \$144,700. *Respondent Exhibit 2; Hemming testimony.*
 - b. The DLGF had previously stipulated with the Petitioners based on a theory that the land base rates on the four parcels would not be changed, but that an obsolescence factor would be applied to the improvements to arrive at a total assessed value on the four parcels \$101,500. *Hemming testimony.* However, after further consideration, the DLGF contends that the previous stipulations agreements are not applicable to these properties. *Id.*
 - c. Four comparable properties demonstrate that the subject properties are valued fairly and consistently for the subject neighborhood. *Respondent Exhibit 5; Hemming testimony.* The four comparable properties sold in 1998, 1999, and 2000, for \$102,500, \$122,000, \$125,000 and \$142,799, respectively. *Id.* The comparable properties’ price per square foot ranges from \$59.03 to \$81.63, while the subject is assessed at \$63.35 per square foot. *Id.*
 - d. The comparable properties’ assessed values range from \$106,200 to \$144,200, while the subject is assessed at \$144,700. *Id.*
 - e. The sale prices of the comparable homes, adjusted to the valuation date of January 1, 1999, indicated a value range of \$98,556 to \$142,799. *Respondent Exhibit 2 & 5; Hemming testimony.* The comparable properties are slightly different in age, square footage and style from the subject. *Id.* The most noted difference between the comparables and the subject is the square footage of land. *Id.* The

comparables have 50 feet and 60 feet of land front footage, respectively, whereas the subject (all four lots) has a total of 100 feet of effective frontage. *Id.*

Record

24. The official record for this matter is made up of the following:

- a. The Petition,
- b. The tape recording of the hearing labeled Lake Co. 1578,
- c. Exhibits:²

Petitioner Exhibit 1 – Notices of Hearing on Petitions,
Petitioner Exhibit 2 – Stipulation agreements on four parcels on appeal,
Petitioner Exhibit 3 – Copy of the Motion to Withdraw DLGF Stipulated Agreement, letter from Mr. Surovek to Mr. Terry G. Duga, Commissioner, Indiana Board of Tax Review, dated April 3, 2005, Telefax from Mr. Surovek to Ms. Lori Harmon, Assistant Director of the Assessment Division, DLGF, Order issued by Mr. Duga to the DLGF, dated March 31, 2005, copy of an email from Mr. Surovek to Ms. Toma Shepherd, dated February 22, 2005, and a letter from Mr. Surovek to Ms. Shepherd, dated February 15, 2005,
Petitioner Exhibit 4 – Two letters from Mr. Surovek to Ms. Melissa Henson, Commissioner of the DLGF, dated April 26, 2005 and April 27, 2005,

Petitioner Exhibit 1-A- A letter from Mr. Surovek to Ms. Shepherd, dated February 15, 2005 and a telefax from Mr. Surovek to Ms. Harmon,
Petitioner Exhibit 2-A – Summary of arguments based on market value,
Petitioner Exhibit 3-A – Letter from Mr. Surovek to Ms. Shepherd, dated November 15, 2004,
Petitioner Exhibit 4-A – A copy of the receipts from Roofers, Inc., dated October 18, 2002 and Hollaway/Meyers Inc., dated March 11, 2004 and appraisal report from Capital Appraisal Company, Inc.,
Petitioner Exhibit 5-A – Summary of arguments based on property record card errors,
Petitioner Exhibit 6-A – Outline of specific errors on the property record card, outline of reasons to suspect data is erroneous on property record card, copy of Residential Neighborhood Valuation Form, three pages of land calculations for neighborhood #02624,
Petitioner Exhibit 7-A – Copies of the Form 139L petitions,

² The Petitioners submitted two sets of exhibits at the hearing. The first set of exhibits identifies the Hearing Officer as Special Master Dalene McMillen, and will be referenced as Petitioner Exhibit 1, 2 ect.. The second set of exhibits identifies the Hearing Officer as Special Master Joan Rennick, and will be referenced as Petitioner Exhibit 1-A, 2-A etc.

Respondent Exhibit 1- Form 139L petitions,
Respondent Exhibit 2 – Subject property record cards,
Respondent Exhibit 3 – Exterior photograph of the subject,
Respondent Exhibit 4 – Property record card and photograph for Timothy Schilling,
Respondent Exhibit 5 – Top 20 comparables and statistics sheet and property record cards and photographs for the following comparables; Richard Bryant, William Francisco, Kraig Hayden and Paul McGrath,
Respondent Exhibit 6 – Plat map of the subject area,
Respondent Exhibit 7 – Copy of the Residential Neighborhood Valuation Form for neighborhood #02624,
Respondent Exhibit 8 – A copy of Chapter 3 page 38 from VERSION A – REAL PROPERTY ASSESSMENT GUIDELINE,

Board Exhibit A – Form 139L petitions,
Board Exhibit B – Notices of Hearing on Petitions,
Board Exhibit C – Hearing sign-in sheets,

- d. These Findings and Conclusions.

Analysis

25. The most applicable cases are:

- a. A Petitioner seeking review of a determination of assessing officials 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 Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Board of Tax Commissioners*, 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 Township 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 Insurance Company 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.

Issue 1 – Market Value

26. The Petitioners did not provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
- a. The Petitioners contend that the subject properties are overvalued in their assessments.
 - b. The Petitioners submitted copies of stipulation agreements dated March 9, 2005, whereby the Petitioners and DLGF had previously agreed to a total assessed value of \$101, 500 on the four parcels under appeal.
 - c. By letter dated March 9, 2005, Mr. Thomas Surovek stated he felt intimidated into stipulating to a value for his properties. The Petitioners requested the stipulation agreements be withdrawn on the subject properties.
 - d. On March 31, 2005, Mr. Terry G. Duga, Commissioner, Indiana Board of Tax Review, ordered the stipulation agreements entered into by the parties on March 9, 2005, be vacated and the matter be set for hearing.
 - e. At the hearing, however, the Petitioners requested that the stipulation agreements dated March 9, 2005, be reinstated.
 - f. The Board declines to reinstate the prior stipulation agreements. The stipulation agreements, dated March 9, 2005, are null and void. If the Petitioners desire the Board to enter an order changing the current assessments, it is the Petitioners’ responsibility to demonstrate, through probative evidence, that the current assessments are 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). Clearly, the stipulation agreements do not serve as probative, market evidence of error in the assessments. Further settlement negotiations are not admissible to prove value. Ind. Evidence rule 408.
 - g. An appraisal performed in accordance with generally recognized appraisal principles is sufficient to establish a prima facie case. *Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003).
 - h. Indiana’s assessment regulations provide that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005); 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on an appraisal to establish the market value-in-use of a property must provide some explanation about how the

appraised value demonstrates or is relevant to the property's value as of January 1, 1999. *Id.*

- i. Petitioners presented an appraisal prepared by Robert D. Tracy, Capital Appraisal Company, Inc. that concluded the value of the subject properties was \$128,000 as of October 12, 2004. Mr. Tracy's appraisal valued the properties more than five years after the valuation date. The Petitioners testified that a time weighted factor supplied by the DLGF would result in a January 1, 1999, value of \$101,500; however, the Petitioners failed to explain or demonstrate through evidence how this factor was calculated, and how it is truly relevant to the property's value as of January 1, 1999.
- j. Again, the previously agreed to stipulations are null and void, and it is the Petitioners' responsibility to show relevance between the appraisal and the January 1, 1999, valuation date. An unsupported time adjustment factor applied to an appraisal completed over five years after the valuation date does not constitute probative evidence of error in the assessments, and does not allow the Petitioners to establish a prima facie case.
- k. Where the Petitioners have not supported the claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus v. Dep't of Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003). Thus, no change in the assessment is warranted as a result of this issue.

Issue 2 – Finished Attic Square Footage

27. There is sufficient evidence to support the Petitioners' contentions that the assessment is incorrect. This conclusion was arrived at because:
 - a. The Petitioners contends that the attic area is 1,142 square feet, with 447 square feet of this area being finished.
 - b. In support of this issue the appraisal prepared by Robert D. Tracy indicates that the finished attic area has 447 square feet and contains a bedroom and half bathroom. *Petitioner Exhibit 4.*
 - c. As the Respondent testified, in calculating the square foot area for an attic, the base ground floor area is used, and not the actual attic floor. The attic cost schedules consider the loss of floor area and wall height in typical attic construction. VERSION A- REAL PROPERTY ASSESSMENT GUIDELINE at 3. *Hemming testimony.*

- d. VERSION A- REAL PROPERTY ASSESSMENT GUIDELINE at 3 states in pertinent part; to figure a finished attic, first you calculate the attic as base ground floor area, second calculate the area closest to the finished attic area and third calculate the base price for the attic by summing the base price for the unfinished area and the base price for the finished area and enter it in the appropriate value column on the property record card.
- e. Through testimony the parties agree that the unfinished area of the attic is 1,142 square feet.
- f. Based on the evidence, the Board finds that the finished area of the attic is 447 square feet; therefore the property record card should be changed to reflect unfinished attic area of 1,142 square feet, with a finished area of 447 square feet.

Issue 3 – Basement Square Footage

28. The Petitioners did not provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
 - a. The Petitioners contend that the basement square foot area is overstated. The Petitioners contends the basement is 1,014 square feet.
 - b. The current basement square footage as stated on the property record card is 1,142.
 - c. To determine the base area of the dwelling/basement unit, an assessor must measure the exterior of each full or partial floor. GUIDELINES, ch. 3 at 9.
 - d. Petitioners did not claim or prove that the assessment failed to follow this methodology. Instead, Petitioners merely contend the square footage is overstated. Petitioners did not contend or prove that they measured the structure to support their claim that the current basement square footage is incorrect. Petitioners’ unsubstantiated conclusions about square footage do not constitute probative evidence. *Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d at 1119.
 - e. Petitioners did not present probative evidence that the current basement square footage of 1,142 is incorrect. Accordingly, Petitioners failed to make a prima facie case of an error in the basement square footage.

Issue 4 – Grade

29. The Petitioners did not provide sufficient evidence to support the Petitioners’ contentions. This conclusion was arrived at because:

- a. The home is currently assessed with a grade of “C+1”. The Petitioners contend the home should have a grade of “C-2” or “D+2”.
- b. Grade is “[t]he classification of an improvement based on certain construction specifications, design and quality of materials and workmanship.” GUIDELINES, glossary at 9.
- c. The Petitioners offered evidence about several factors as purported proof that the grade should be lowered. The Petitioners stated there are 33 exterior and interior items listed in the GUIDELINES, appendix A at 10-14 that are to be considered in determining the grade to be assigned to the dwelling. The subject dwelling has eight items in the “E” grade category, seventeen items in the “D” grade category, fourteen items in the “C” grade category and seven items in the “B” grade category. The Petitioners contend that when all the items are considered, the grade that best represents the subject is a “C-2” or “D+2”.
- d. A taxpayer must offer “specific evidence tied to the descriptions of the various grade classifications” to make a prima facie case. *Soller Pointe Co. v. Dep’t of Local Gov’t Fin.*, 790 N.E.2d 185, 191 (Ind. Tax Ct. 2003). The Petitioners failed to link the evidence to any specific grade, or explain the manner in which these features are more indicative of a “C-2” or “D+2” grade rather than a “C+1”. Their conclusory opinions do not help to establish a prima facie case.
- e. The Petitioners failed to make a prima facie case of an error concerning the grade.

Issue 5 – Land Value

30. The Petitioners did not provide sufficient evidence to support the Petitioners’ contentions. This conclusion was arrived at because:
 - a. The Petitioners contend that the land is overvalued in its assessment.
 - b. “[I]t should be stressed that the pricing method for valuing the neighborhood is less important than arriving at the correct value of the land as of the valuation date.” REAL PROPERTY ASSESSMENT GUIDELINE FOR 2002 – VERSION A, ch. 2 at 16. (incorporated by reference at 50 IAC 2.3-1-2). The correct value of property is its “true tax value” which is defined as “the market value-in-use of property for its current use, as reflected by the utility received by the owner or a similar user of the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2).
 - c. The Petitioners’ contention regarding the land value being overstated was not sufficiently supported by market evidence. The Petitioners’ statement that the

land should be valued at \$22,300 was not substantiated with market evidence and does nothing to establish the appropriate market value-in-use for the subject property. Unsupported statements concerning land value are a matter of opinion and are conclusory at best. Conclusory statements do not constitute probative evidence. *Whitely Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

- d. The Petitioners contend the DLGF erred when they established the land base rate at \$485 per front foot. The Petitioners testified that based on the Residential Neighborhood Valuation Form, the land ratio is to be 22% +/- of the market value of the subject property. Therefore, the Petitioners contend, if it is determined the market value of the subject property for January 1, 1999, is \$101,500 the land for the four parcels under appeal should be \$22,300 or \$223 per front foot (the Petitioners four parcels equals 100 feet of effective frontage).
- e. The Petitioners essentially contend that the DLGF erred when they established the front foot base rate for neighborhood #02624. Again, however, the Petitioners have merely submitted conclusory statements without market evidence to support their opinions.
- f. Where the Petitioners have not supported their claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus v. Dep't of Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Issue 6 – Neighborhood Factor

- 31. The Petitioners did not provide sufficient evidence to support the Petitioners' contentions. This conclusion was arrived at because:
 - a. The Petitioners contend that by using an incorrect land value it has created an inappropriate neighborhood factor of 1.38 (138%).
 - b. A neighborhood is defined as a geographic area exhibiting a high degree of homogeneity in residential amenities, land use, economic and social trends and housing characteristics. A "neighborhood factor" is assigned by local assessing officials to account for the impact on value caused by physical characteristics (such as streets, support services and utilities), economic characteristics (such as demand of property), government characteristics and social characteristics. REAL PROPERTY ASSESSMENT GUIDELINE – VERSION A, appendix B at 8.

- c. The Petitioners presented no evidence of sales that occurred in their neighborhood to establish the neighborhood factor assigned to neighborhood #02624 is incorrect.
- d. The Petitioners' unsubstantiated conclusions do not constitute probative evidence. *Whitely Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113 (Ind. Tax Ct. 1998).

Conclusion

- 32. The Petitioners failed to make a prima facie case regarding the market value, basement square footage, grade, land value, and neighborhood factor. The Board finds in favor of the Respondent.
- 33. The Petitioners presented a prima facie case that the finished attic square footage is overstated. The Board finds based on the evidence that the finished area of the attic is 447 square feet, therefore the property record card should be changed to reflect unfinished attic area of 1,142 square feet with a finished area of 447 square feet. The Board finds in favor of the Petitioners.

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: October 25, 2005

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. 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/inde.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>