

Representative for Petitioner:
Paul K. Ogden, Attorney

Representative for Respondent:
Marilyn Meighen, Attorney

**BEFORE THE
INDIANA BOARD OF TAX REVIEW**

PROPERTY DEV. CO. FOUR, LLC,)	Petition Nos.: 27-002-09-1-5-00001
)	27-040-09-1-5-00001
)	
Petitioner,)	Parcel Nos.: 27-07-05-404-036.000-002
)	27-08-08-200-001.006-040
)	
v.)	County: Grant
)	
GRANT COUNTY ASSESSOR,)	Townships: Monroe
)	Center
)	
Respondent.)	Assessment Year: 2009

On Remand from the Indiana Tax Court
Cause No. 49T10-1401-TA-00003

FEBRUARY 9, 2016

**FINAL DETERMINATION
ON REMAND FROM TAX COURT**

The Indiana Board of Tax Review (Board), having reviewed the decision of the Indiana Tax Court (Tax Court) in the above-captioned matter dated May 12, 2015 (attached and incorporated by reference) and pursuant to Ind. Code. § 6-1.1-15-8 refers this matter to the Grant County Property Tax Assessment Board of Appeals (PTABOA) to recalculate the assessment at issue in accordance with the Tax Court decision as described herein:

FACTS AND PROCEDURAL HISTORY

1. The Petitioner initiated its assessment appeal with the PTABOA on November 1, 2010. The PTABOA held a hearing on June 22, 2011, but did not issue a decision within the time frame allowed by Ind. Code § 6-1.1-15-1 (n) and (o).
2. On November 28, 2011, the Board received the Petitioner's Form 131 petitions, asserting an error in the "2009-pay-2010 (retroactive)" tax bill. The Petitioner requested a change because "Indiana law prohibits retroactive assessments under IC 6-1.1-4-12(f), '[A]n assessment or reassessment made under this section (dealing with subdivision lots) is effective on the next assessment date'" (attached and incorporated by reference).
3. A hearing was held on September 12, 2013, before Tom Martindale, the designated administrative law judge appointed by the Board to conduct the hearing. On December 10, 2013, the Board issued a Final Determination finding the Petitioner's claims for relief shall be denied for the 2005 and 2006 assessments on the Aspen Court property and for the 2004 and 2005 assessments on the Eastway Drive property. However, the Board found the 2004 assessment on the Aspen Court property was invalid because it was not conducted within the time permitted by Ind. Code § 6-1.1-9-4(a).
4. On December 27, 2013, the Petitioner requested the Board conduct a rehearing. The request was denied on January 9, 2014.
5. On January 23, 2014, the Petitioner filed a petition for review with the Tax Court. In its decision published on May 12, 2015, the Tax Court affirmed in part and reversed and remanded in part. The Tax Court concluded that the Board correctly determined that the Assessor was authorized to assess the subject properties under Ind. Code § 6-1.1-9-1 et. seq., but erred in determining that Property Development had received statutorily required notice of those assessments via the Form 122s.
6. The Tax Court also held the tax bills sent to Property Development in 2010 were not timely notice.

7. On June 12, 2015, the Respondent filed a petition for rehearing with the Tax Court. On August 20, 2015, the Tax Court granted the petition for the sole purpose of clarifying its opinion but ultimately reaffirmed its holding in its entirety.
8. The Respondent subsequently filed a petition for review with the Indiana Supreme Court which denied such petition on January 21, 2016.
9. The Tax Court conclusion requires the assessments made via the invalid Form 122s be set aside.

FINAL DETERMINATION

Accordingly, pursuant to Ind. Code § 6-1.1-15-8, the Board refers this matter to the PTABOA to set aside the assessments made via the invalid Form 122s consistent with the above-referenced Tax Court decision.

Chairman, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

Commissioner, Indiana Board of Tax Review

-APPEAL RIGHTS-

You may petition for judicial review of this final determination under the provisions of Indiana Code § 6-1.1-15-5 and the Indiana Tax Court's rules. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>. The Indiana Tax Court's rules are available at <<http://www.in.gov/judiciary/rules/tax/index.html>>.