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TITLE 52 INDIANA BOARD OF TAX REVIEW

LSA Document #04-261(E)

DIGEST

Temporarily adds provisions establishing procedures to govern proceedings before the Indiana board of tax review with respect to appeals for the 2002 assessment year in Lake County. Authority: HEA 1535, P.L.235-2003; IC 4-22-2-37.1; IC 6-1.1-4-34. Effective September 23, 2004.

SECTION 1. The purpose of this document is to establish procedures to govern administrative proceedings before the board arising from appeals of assessments of real property in Lake County for the March 1, 2002, assessment date. The definitive procedures, procedural requirements, and evidentiary controls established by this document are deemed essential to assure that the administrative appeals before the board are conducted in the most uniform and objective manner possible.

SECTION 2. (a) The provisions of this document apply to and govern all proceedings before the board that arise from appeals of assessments:

- (1) of real property located in Lake County;**
- (2) completed for the March 1, 2002, assessment date; and**
- (3) performed by the department of local government finance or the department's authorized contractor pursuant to IC 6-1.1-4-32.**

(b) The procedures set forth in 52 IAC 2 apply to petitions filed under IC 6-1.1-15 and do not reflect the unique process of IC 6-1.1-34 (governing appeals from the Lake county reassessment for 2002). However, many of the general rule provisions of 52 IAC 2 are applicable to matters heard under IC 6-1.1-34. Therefore, the definitions and rules found in 52 IAC 2 that are not inconsistent with this document apply to the appeals described in subsection (a). If there is a conflict, the definitions and rules of this document will control.

(c) The provisions of 52 IAC 2-6-6 do not apply to this document.

SECTION 3. The board shall conduct an impartial review of an appeal from a final assessment decision under IC 6-1.1-4-33(g) issued by the department.

SECTION 4. The following definitions apply throughout this document:

- (1) "Appeal petition", as used in this document, means a petition for review of a final assessment decision issued by the department and filed with the board under IC 6-1.1-4-34 on form 139L or such other form as prescribed by the board.**
- (2) "Contractor" means a firm that entered into a contract with the department to assess property in the county and to conduct informal hearings concerning assessments of real property in the county under IC 6-1.1-4-32 and IC 6-1.1-4-33.**
- (3) "County" means Lake County, Indiana.**
- (4) "Department" means the department of local government finance established under IC 6-1.1-30-1.1.**
- (5) "Final assessment decision" means a final decision issued by the department that serves as notice of a changed reassessment that may be appealed under IC 6-1.1-4-34(c).**
- (6) "Final order" or "final determination", as used in this document, means any action of the board that is:**
 - (A) designated as final by the board;**
 - (B) the final step in the administrative process before resort may be made to the judiciary; or**
 - (C) subject to appeal to tax court under IC 6-1.1-4-34(m).**
- (7) "Informal hearing" means the process described in IC 6-1.1-4-33(b).**
- (8) "Notice of reassessment" means a written notice of the assessed value of real property delivered to the taxpayer by the department pursuant to IC 6-1.1-4-32(f).**
- (9) "Special master" means a qualified individual designated by the board under IC 6-1.1-4-34(e) to conduct evidentiary hearings and prepare reports in accordance with IC 6-1.1-4-34(g).**

SECTION 5. (a) An appeal petition must be filed with the county assessor within thirty (30) days after the department gives notice of the final assessment decision.

(b) There is a rebuttable presumption that the final assessment decision is mailed on the date of the final assessment decision.

SECTION 6. In order to appeal to the board, the taxpayer must:

(1) request and participate as required in the informal hearing process under IC 6-1.1-4-33 not later than forty-five (45) days after the date of the notice of reassessment;

(2) receive a final assessment decision from the department; and

(3) file an appeal petition with the county assessor not later than thirty (30) days after the notice of the final assessment decision is given to the taxpayer.

SECTION 7. The hearing shall be scheduled no earlier than thirty (30) days after receipt of the appeal petition unless otherwise agreed by the parties.

SECTION 8. (a) Hearings will be conducted by a special master or by a member of the board acting as a special master.

(b) All testimony shall be under oath or affirmation.

(c) Hearings will be tape-recorded. The recording will serve as the basis of the official record of the proceeding unless the hearing is transcribed by a court reporter. A party may hire a court reporting service to transcribe the hearing so long as the reporting service is directed to submit an official copy of the transcript to the board at no cost to the board.

(d) The special master may rule on any nonfinal order without the approval of a majority of the board.

(e) In order for a tax representative to participate in the hearing, the tax representative must be certified by the department and follow the rules of 52 IAC 1.

SECTION 9. (a) Hearings held before a special master shall be held in the county or at such other location as the parties and the designated special master agree.

(b) Hearings held by a member of the board acting as a special master may be held in the central office.

SECTION 10. (a) Except as provided in subsection (d), a party participating in the hearing may introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at the informal hearing described in IC 6-1.1-4-33.

(b) No posthearing submissions will be allowed or accepted unless requested by the board.

(c) The parties shall make available to all other parties copies of any documentary evidence and the names and addresses of all witnesses intended to be presented at the hearing at least five (5) days before the hearing. At the commencement of the hearing, the parties shall make available to the presiding special master a copy of all documentary evidence provided to the other parties.

(d) Failure to comply with subsection (c) may serve as grounds to exclude the evidence.

SECTION 11. A hearing may be continued only upon a showing of extraordinary circumstances.

SECTION 12. (a) The board shall conduct a hearing within the time limits set forth in IC 6-1.1-15-4(f) unless the board extends the time under subsection (c).

(b) The board shall make a final determination within the time limits set forth in IC 6-1.1-15-4(h) unless the board extends the time under subsection (c).

(c) If, due to the volume of pending appeals, it becomes impracticable to either conduct a hearing or make a final determination within the time frames established by IC 6-1.1-15-4, the board may extend the time frames as necessary.

SECTION 13. (a) The board shall examine each petition filed under SECTION 5 [of this document] to determine whether it meets the jurisdictional requirements of IC 6-1.1-4-34(c). The board may establish procedures for such examinations, and the procedures may include orders to submit additional information, telephone conferences to clarify information provided, or other proceedings involving the parties as necessary to determine the events surrounding the taxpayer's filing.

(b) If a petitioner fails to respond to an order requesting additional information, or if, after the board has completed its examination, it is determined that the petitioner did not meet the jurisdictional requirements set forth in IC 6-1.1-4-34(c), the board shall dismiss the petition.

SECTION 14. The board may establish procedures to govern the participation of a township assessor or county assessor who wishes to attend or participate in a hearing under IC 6-1.1-4-34(j).

SECTION 15. This document readopts and modifies the provisions of LSA Document #04-184(E).

LSA Document #04-261(E)

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