REPRESENTATIVE FOR PETITIONER:
James H. O'Donnell, Tax Representative

REPRESENTATIVE FOR RESPONDENT:
Frank Agostino, Attorney

BEFORE THE
INDIANA BOARD OF TAX REVIEW

John L. Gruszynski,	)	Petition No.: 71-011-13-1-5-20032-15
	)	
Petitioner,	)	Parcel No.: 71-05-09-476-018.000-011
	)	
v.	)	County: St. Joseph
	)	
St. Joseph County Assessor,	)	Township: Harris
	)	
Respondent.	)	Assessment Year: 2013

Appeal from the Final Determination of the
St. Joseph County Property Tax Assessment Board of Appeals

March 1, 2017

FINAL DETERMINATION

The Indiana Board of Tax Review ("Board") having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

ISSUE

1. The Petitioner had the burden to prove that his assessment was incorrect and what the correct assessment should be. Did he meet his burden?

PROCEDURAL HISTORY

2. On November 14, 2013, the Petitioner appealed his 2013 assessment to the Respondent. On February 2, 2015, the St. Joseph County Property Tax Assessment Board of Appeals ("PTABOA") issued its determination lowering the assessment, but not to the level the Petitioner requested. On March 17, 2015, the Petitioner timely filed a Form 131 petition with the Board.

3. On October 18, 2016, the Board's administrative law judge, Patti Kindler ("ALJ"), held a hearing. Neither she nor the Board inspected the property.

HEARING FACTS AND OTHER MATTERS OF RECORD

4. The flowing people were sworn and testified: The Petitioner; the Petitioner's tax representative, James H. O'Donnell; and Patricia St. Clair, chief deputy assessor for the Respondent.

5. The Petitioner submitted the following exhibits:[1]

Petitioner Exhibit 1:	Survey for North Brook Shores, Section III,
Petitioner Exhibit 2:	Survey for Lot 41A of North Brook Shores, Section III,
Petitioner Exhibit 3:	Property record card for the Petitioner's property; seven photographs of the Petitioner's property,
Petitioner Exhibit 4:	North Brook Shores Covenants, pages 5-6,
Petitioner Exhibit 5:	Sales information for lots in Northbrook Shores together with pages 5-6 of the North Brook Shores Covenants,
Petitioner Exhibit 6:	REAL PROPERTY ASSESSMENT GUIDELINES, ch. 2 pp. 7, 11, 15-16, 54-55, 59-60, and 92-93; October 7, 2016 email from Barry Wood to James O'Donnell; Department of Local Government Finance memorandum entitled "*Certification of Agricultural Land Base Rate Value for Assessment Year 2013*,"
Petitioner Exhibit 7:	Digital recording of the PTABOA hearing,
Petitioner Exhibit 9:	Form 115 determination,
Petitioner Exhibit 10:	2011 REAL PROPERTY ASSESSMENT MANUAL, and REAL PROPERTY ASSESSMENT GUIDELINES ch. 2 pp. 1-64,

[1] In the front pocket of the binder containing his exhibits, the Petitioner also included a certificate indicating that Mr. O'Donnell is a Level III Certified Indiana Assessor-Appraiser.

Petitioner Exhibit 11:	Spreadsheet with information on average lots and base rates for land in Harris Township, which the parties referred to as the "Land Order,"
Petitioner Exhibit 13:	Survey maps of lots 41A, 42, 43, 44, 55A, 56, 58, 59, 61, and 62 in Northbrook Shores.

6. The Respondent submitted the following exhibits:

Respondent Exhibit 1:	Form 131 petition,
Respondent Exhibit 2:	Form 115 determination,
Respondent Exhibit 3:	Form 130 petition,
Respondent Exhibit 4:	Form 134 report, dated August 6, 2014,
Respondent Exhibit 5:	2013 property record cards (PRC) for Lots 41A, 42, 43, and 44 Northbrook Shores,
Respondent Exhibit 6:	2013 pictometry overhead view of the Petitioner's parcel and adjacent parcels with frontage on the lake,
Respondent Exhibit 7:	2013 PRCs for lots 55A, 56, 58, 59, 60, 61, and 62,
Respondent Exhibit 8:	2013 pictometry overhead view for lots 55A, 56, 58, 59, 60, 61, and 62,
Respondent Exhibit 9:	Screenshot of email "sent items" folder,
Respondent Exhibit 10:	September 30, 2016 email from Dustin Jesch to Mr. O'Donnell,
Respondent Exhibit 11:	Copies of certified mail envelopes and receipts,
Respondent Exhibit 12:	"Calculation sheet,"
Respondent Exhibit 13:	Spreadsheet with information for properties from search of multiple listing service; map of "comparable" properties; transfer history and parcel overview information for various properties (8 pages); spreadsheet with calculations for five properties and the Petitioner's property,
Respondent Exhibit 14:	Spreadsheet with calculation of the land-to-improvement ratio, sale price per square foot, and value for nine North Brook Shores sales,
Respondent Exhibit 15:	Aerial view of the Petitioner's property and PRC with handwritten estimate of land value without the utility towers,
Respondent Exhibit 16:	Aerial view of 10202 Halcyon Court with PRC.

7. The following additional items are recognized as part of the record:

Board Exhibit A:	Form 131 petition with attachments,
Board Exhibit B:	Hearing notice,
Board Exhibit C:	Hearing sign-in sheet,
Board Exhibit D:	Notice of Appearance for Frank Agostino.

8. The property contains a single-family home at 10193 Halcyon Court in Granger. It is located in the North Brook Shores subdivision.

9. The PTABOA determined an assessment of $425,200 (land $100,000 and improvements $325,200).

10. At the hearing, the Petitioner requested an assessment of $388,325 (land $63,325 and improvements $325,000).

OBJECTIONS

11. The parties made several objections, all of which the ALJ took under advisement. We will address each in turn, beginning with the Respondent's objections.

A. Respondent's Objections

12. The Respondent objected to the portion of Petitioner's Exhibit 6 that contains an email from Barry Wood[2] about how retention ponds and utility easements are treated under the 2011 Real Property Assessment Guidelines as well as to Mr. O'Donnell's testimony about Mr. Wood's statements. The Respondent objected because Mr. Wood was not at the hearing to testify, which we take to mean that the Respondent believes the email and related testimony are inadmissible under the hearsay rule (Ind. Evid. Rule 802). The Petitioner did not dispute that the statements were hearsay, nor did he argue that they were admissible under any generally recognized exception to the hearsay rule. *See Agostino objection and O'Donnell response*.

13. Our procedural rules allow us to admit hearsay, with the caveat that it cannot form the sole basis of our determination if it is objected to and does not fall within a recognized exception to the hearsay rule. 52 IAC 3-1-5(b). We therefore overrule the objection,

[2] Barry Wood is the assessment director for the Department of Local Government Finance.

although we do not ultimately rely on the email or related testimony in deciding this appeal.

14. The Respondent next objected to other portions of Petitioner's Exhibit 6, and to all of Petitioner's exhibit 13, on grounds that she did not receive those documents before the hearing. In a non-small claims appeal, such as this, parties must exchange witness and exhibit lists at least 15 business days prior to the hearing and copies of their documentary evidence at least five business days prior to the hearing. 52 IAC 2-7-1(b)(1). The exchange requirement allows parties to be better informed and to avoid surprises. It also promotes an organized, efficient, and fair consideration of the issues. We may exclude evidence based on a party's failure to comply with this requirement. 52 IAC 2-7-1(f).

15. We overrule the objections. While it is unclear whether the Petitioner actually provided the disputed portions of Petitioner's Exhibit 6 to the Respondent in advance of the hearing, she was not required to do so. The portions at issue are excerpts from the 2011 Real Property Assessment Guidelines—an administrative rule from the Department of Local Government Finance ("DLGF"). They are not evidentiary. The parties were free to cite to the Guidelines without providing either the Board or the opposing party with copies.

16. Petitioner's Exhibit 13, however, is evidentiary. It contains surveys of several parcels from North Brook Shores. The Petitioner acknowledged that he did not exchange the surveys prior to the hearing. But he argued that he was not required to do so. The surveys address parcels referenced in property record cards that the Respondent offered as her own exhibit (Respondent's Exhibit 7). According to the Petitioner, the surveys give a better indication of each parcel's assessment as a function of usable area than do the property record cards standing alone.

17. There is nothing to show that the Petitioner anticipated the need for the surveys prior to the exchange deadline, which is when he received copies of the property record cards the

Respondent intended to offer. In any case, the Respondent did not show how she would be prejudiced by admitting the surveys, nor did she ask for relief less drastic than exclusion. Under those circumstances, we will not exclude the surveys.

18. The Respondent next objected to Petitioner's Exhibit 5, which purports to show sale prices for properties in North Brook Shores, but which Mr. O'Donnell testified actually shows only asking prices. The Respondent argued that asking prices, by themselves, are irrelevant. *Agostino objection; O'Donnell response*.

19. While the asking prices have little probative value, that is more a question of weight than admissibility. And the Respondent opened the door by questioning her own witness, Ms. St. Clair, about some of the asking prices before the Petitioner offered Exhibit 5. We therefore overrule the objection.

20. The Respondent also objected to arguments and questions by Mr. O'Donnell that she claims amounted to the unauthorized practice of law. Specifically, she objected to Mr. O'Donnell (1) referencing the "bundle of rights" owned by the Petitioner and easements burdening the property when cross-examining Ms. St. Clair, (2) objecting to exhibits based on our pre-hearing exchange rule, and (3) arguing about who has the burden of proof. As to his cross-examination of Ms. St. Clair, Mr. O'Donnell responded that he was simply referring to terms in a publication from the International Association of Assessing Officers. *Agostino objection*; *O'Donnell response*.

21. We overrule the objections. Concepts such as easements and the rights inherent in property ownership are routinely considered by assessors and appraisers in valuing property. In any case, we fail to see how simply asking a witness about those concepts amounts to the practice of law.[3] And objecting to exhibits based on the opposing party

[3] Mr. Agostino also objected to Mr. O'Donnell's questions about easements and the Petitioner's bundle of rights on the grounds that they were irrelevant. We disagree that these concepts are irrelevant to a property's value and overrule the objection.

failing to timely exchange them requires little or no interpretation of our procedural rules. Similarly, while it is a closer question, we also disagree that Mr. O'Donnell's argument regarding the burden of proof amounted to the unauthorized practice of law. His argument mainly consisted of comparing property values from two different assessment years.

22. Finally, the Respondent objected to the form and scope of Mr. O'Donnell's cross-examination of Ms. St. Clair. According to the Respondent, Mr. O'Donnell exceeded the scope of direct examination in several instances and made arguments rather than simply asking questions. *Agostino objection*.

23. We overrule both objections. Mr. O'Donnell did mix some argument with his cross-examination, and we caution him against doing so in the future. Nonetheless, we do not believe that his actions unduly confused the witness or counsel. Ms. St. Clair was able to answer the questions, and counsel was able to respond to any arguments that should more properly have been made in closing. Similarly, to the extent any questions exceeded the scope of Ms. St. Clair's direct examination, the Respondent suffered no prejudice. She was free to explore those topics on re-direct.

B. Petitioner's objections

24. The Petitioner objected to Respondent's Exhibits 13-16, arguing that the Respondent did not provide those exhibits to him before the hearing. In response, the Respondent argued that all 16 exhibits were mailed together. Ms. St. Clair testified that she provided all the exhibits to Mr. O'Donnell. The Respondent offered an email from another employee, Dustin Jesch, indicating he was mailing witness and exhibit lists to Mr. O'Donnell. She also provided copies of certified mail envelopes and receipts showing that Mr. Jesch mailed items described as "Evidence" and a "Hearing CD" on October 5, and October 7, 2016, and that Mr. O'Donnell received those items. *O'Donnell objection; Agostino response; St. Clair testimony; Resp't Exs. 9-10*.

25. While the Respondent's office might have inadvertently omitted copies of the contested exhibits with the packet it mailed to Mr. O'Donnell, those documents are referenced on the exhibit list the Respondent gave the ALJ. Mr. O'Donnell did not claim they were omitted from the exhibit list provided to him before the hearing. And there is nothing to indicate that he followed up with the Respondent to get copies of the missing exhibits or sought any remedy less drastic than exclusion. Under those circumstances, we overrule the Petitioner's objection and admit Respondent's Exhibits 13-16.

PETITIONER'S CONTENTIONS

26. The Petitioner's land is assessed too high. The 2.9-acre lot is encumbered by electrical towers and an easement for power lines. It also includes part of a retention pond. Less than one acre (36,851 square feet) is usable. *Gruszynski testimony; O'Donnell argument; Pet'r Exs. 1-4.*

27. The land encumbered by the easement is hilly and unusable, yet the Petitioner must maintain and mow it at his own cost. He once planted pine trees under the power lines, but the electric company cut them down and left the stumps. The Petitioner cannot put in a garage, tennis court, or any other structure, but he is assessed as if he could. *Gruszynski testimony; O'Donnell argument; Pet'r Exs. 3-4.*

28. The Petitioner disagrees with several aspects of his assessment. According to the 2011 Real Property Assessment Guidelines, the first acre should be valued as a home site and the rest should be valued as excess acreage at a lower rate. In addition, according to an email from Barry Wood, retention ponds are generally treated like farm ponds. They are assessed at the agricultural base rate with a .5 soil-productivity factor and a negative 40% influence factor. The agricultural base rate for 2013 was $1,760/acre. The Guidelines also provide that 0.125 acres should be subtracted from a site for each utility tower, and that a transmission right-of-way should be assessed "according to the land use of the acreage." But the Petitioner's property record card does not divide the land between those various categories. *O'Donnell argument and testimony; Pet'r Exs. 6, 11.*

29. In any case, the Respondent did not identify what sales she used to come up with a base rate of $1.65/sq. ft. The Respondent's use of square-foot rates to value the land is also incorrect. The "Land Order" for the Petitioner's assessment neighborhood shows front-foot rates rather than square-foot rates. *O'Donnell testimony and argument; Pet'r Exs. 6, 11.*

30. Nonetheless, the Petitioner does not object to the 36,851 square feet of usable area being valued at $1.65/sq. ft. But he believes the easement and retention pond should be valued at $1,200/acre, which is how that type of land is valued elsewhere in Harris Township. That adds up to $63,325 for the land and $388,325 for the property as a whole. *O'Donnell argument; Pet'r Ex. 6, 10, 11.*

31. The Respondent tried to justify the Petitioner's assessment by comparing it to the assessments for several other lots from North Brook Shores. But land surveys show that the retention pond and transmission easements make up a much smaller portion of those lots. *O'Donnell testimony and argument; Pet'r Exs. 5, 13.*

32. Finally, the Petitioner believes the PTABOA treated him unfairly at the hearing below. It made its determination before he was able to submit all his exhibits, and it did not give him the chance to explain his position. The PTABOA then changed his land assessment to $100,000 without explaining why it chose that value. *Gruszynski testimony; Pet'r Ex. 7.*

RESPONDENT'S CONTENTIONS

33. The land at issue was previously assessed as agricultural. As required by the developer's discount statute, the Respondent maintained that classification while the land was held by North Brook Shores' developer. The Respondent should have reclassified the land and assessed it as residential in 2008, when Petitioner bought the property and built a home.

But the Respondent inadvertently failed to do so. She discovered her error in 2013 and properly reclassified the land as residential. *St. Clair testimony.*

34. The land assessment of $100,000 fairly reflects the value of the Petitioner's lot. To assess the lot, the Respondent multiplied its total area (129,987 square feet) by the neighborhood's base rate of $1.65/sq. ft. That led to a value of $214,500. The base rate was from the 2012 "Land Order," which the DLGF approved. Because all the lots in the subdivision were irregularly shaped, the Respondent priced them by square foot rather than by front foot. The PTABOA applied a negative influence factor of 53% to compensate for the overhead wires and retention pond, which reduced the land value to $100,000. *St. Clair argument and testimony; Resp't Ex. 5.*

35. The Respondent agrees that 0.125 acres of the Petitioner's land contains electrical towers. If an adjustment were made for the towers on the property record card, however, the assessment would only drop to $96,600. The Respondent disagrees with the Petitioner's claims that he cannot use the easement and retention pond. In fact, he has a paddleboat docked in the pond. Meanwhile, he still benefits from the negative influence factor for the pond and utility easement. Other lots from North Brook Shores do not get that influence factor. *St. Clair testimony and argument; Resp't Exs. 15-16.*

36. All the North Brook Shores lots were assessed at $1.65/sq. ft. The Respondent offered sales and assessment information for Lots 42-44, 55A, and 60-62. All are located on the retention pond, and one has electrical towers. All are substantially smaller than the Petitioner's lot, yet four of those lots sold for $82,500 in 2013. No lot was assessed for less than $56,300 in 2013. The developer has listed some lots for sale at $250,000. *St. Clair testimony; Resp't Exs. 5-8, 16; Pet'r Ex. 5.*

37. The Petitioner's argument about the neighboring lots' usable area actually supports the assessment. The Petitioner has more usable area than any of the neighboring lots, yet some were assessed for almost as much as the Petitioner's lot. For example, Lot 42,

which has only 25,892 usable square feet, was assessed at $78,700. Similarly, Lot 44, which has 34,456 usable square feet, was assessed at $85,500. *St. Clair testimony; Resp't Exs. 5, 7; Agostino argument (referencing Pet'r Ex. 13).*

38. Ms. St. Clair searched online to find comparable improved properties that were within a three-mile radius of the Petitioner's property and that had homes with between 2,000 and 3,500 square feet above grade, three or more bedrooms, and at least two bathrooms. Five sales met those criteria. The median sale price was $455,400. By contrast, the Petitioner's overall assessment was only $425,200. *St. Clair testimony and argument; Resp't Ex. 13.*

39. Ms. St. Clair also analyzed nine properties to determine the ratio between their sale prices as improved and the prices for the lots when they were vacant. The average ratio was 7.73/1, the median ratio was 7.78/1, and the ratio for the property located closest to the Petitioner's property was 6.73/1. Applying those ratios to a value of $78,000[4] for the Petitioner's land, the property's overall value falls between $525,098 and $607,147. *St. Clair testimony and argument; Resp't Ex. 14.*

BURDEN OF PROOF

40. Generally, a taxpayer seeking review of an assessment must prove the assessment is wrong and what the correct value should be. Indiana Code § 6-1.1-15-17.2 creates an exception to that general rule and assigns the burden of proof to the assessor where (1) the assessment under appeal represents an increase of more than 5% over the prior year's assessment for the same property, or (2) the taxpayer successfully appealed the prior year's assessment and the current assessment represents an increase over what was determined in the appeal, regardless of the level of that increase. *See* I.C. § 6-1.1-15-17.2(a), (b) and (d). Even then, the burden remains with the taxpayer if the current

[4] At the hearing, Ms. St. Clair testified that she used $78,500—the amount the Petitioner paid for the land in 2008. On the spreadsheet where she computed the ratios, however, she used $78,000.

assessment was based on structural improvements, zoning, or uses that were not considered in the prior year's assessment. I.C. § 6-1.1-15-17.2(c).

41. The Petitioner's assessment increased by more than 5% between 2012 and 2013, going from $301,000 to $425,200. Nonetheless, the Respondent argues that the Petitioner should retain the burden of proof because the increase stemmed mostly from changing the land's classification from agricultural to residential.

42. We agree. Normally, when land assessed on an acreage basis is either (1) subdivided into lots, or (2) rezoned for, or put to, a different use, it must be reassessed based on its new classification. I.C. § 6-1.1-4-12(e). An exception to that rule applies to "land in inventory" held by a developer under what is commonly known as the "developer's discount." I.C. § 6-1.1-4-12(i)-(j). Land subject to the developer's discount may not be reclassified until it is transferred to a non-developer, a building permit for construction on the land is issued, or construction of a structure actually begins. *Id*.

43. The Petitioner's land was previously owned by a developer and was classified as agricultural. The Respondent should have re-classified the land in 2008, when the Petitioner bought it and built a house on it. The Respondent, however, inadvertently failed to reclassify the land as residential until 2013. When she did so, the land portion of the assessment jumped from $2,400 to $100,000 (as determined by the PTABOA). *See St. Clair testimony; Pet'rs Exs 1, 9; Resp't Ex. 2*.

44. While the Petitioner argues that the change in use occurred in 2008 rather than 2013, the Respondent did not completely assess the property based on its residential use until 2013. Thus, the assessment under appeal was based on a use that was not considered in determining the prior year's assessment, and the Ind. Code § 6-1.1-15-17.2's burden-shifting rule does not apply. We emphasize that this is not a case where the Assessor affirmatively decided not to re-classify the property in previous years despite the property losing its eligibility under the developer's discount. The delay in reclassification appears

to have been entirely inadvertent. Under those circumstances, we find that the 2013 assessment was based on a residential use that was not considered in the 2012 assessment.[5]

ANALYSIS

45. Real property is assessed based on its true tax value, which the 2011 Real Property Assessment Manual defines as "the market value-in-use of a property for its current use, as reflected by the utility received by the owner or by a similar user, from the property." I.C. § 6-1.1-31-6(c); 2011 REAL PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.4-1-2). The cost, sales-comparison, and income approaches are three generally accepted techniques used to determine true tax value. Assessing officials primarily use the cost approach, but other evidence is permitted to prove an accurate valuation. Such evidence may include actual construction costs or sales information for the property under appeal, sales or assessment information for comparable properties, appraisals, and any other information compiled in accordance with generally accepted appraisal principles. *See Eckerling v. Wayne Twp. Ass'r*, 841 N.E.2d 674, 678 (Ind. Tax Ct. 2006); *see also*, I.C. § 6-1.1-15-18.

46. By contrast, a taxpayer normally cannot make a case simply by contesting the methodology the assessor used to compute the assessment. *Eckerling*, 841 N.E.2d at 678. Instead, the taxpayer must show that the assessor made yielded an assessment that did not accurately reflect true tax value. *Id*. Strictly applying the Guidelines does not suffice. *Id*.

[5] The Petitioner did not point to any statute other than Ind. Code § 6-1.1-15-17.2 for the proposition that the Respondent had the burden of proof. A separate statue, Indiana Code § 6-1.1-4-4.4, provides that when an "assessor changes the underlying parcel characteristics, including age, grade, or condition, of a property, from the previous year's assessment date, the assessor shall document: (1) each change; and (2) the reason that each change was made," and that the assessor has the burden of proving that each change was valid." Assuming, without deciding, that Ind. Code § 6-1.1-4-4.4 applies to the circumstances at hand, the Respondent showed that the change in classification from agricultural to residential was valid.

47. Yet that is exactly what the Petitioner did in this case. He simply attacked how the Respondent and the PTABOA applied the Guidelines and "Land Order" in assessing the property. The only market-based evidence he offered was (1) the sale in which he bought the lot for $75,800 in 2008, and (2) asking prices for various other North Brook Shores lots, some of which sold for undisclosed amounts. The sale of the Petitioner's property occurred five years before the March 1, 2013 valuation date at issue in this appeal. And the Petitioner did not attempt to explain how the sale price related to the property's value as of the valuation date. Under those circumstances, the sale price lacks probative value. *See Long v. Wayne Twp. Ass'r,* 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (holding that an insurance policy and appraisal lacked probative value because the taxpayers failed to explain how that evidence related to the value as of the relevant valuation date).

48. The Petitioner did not even give dates for the asking prices on the other lots. In any case, an asking price, without more, does little to show a property's value. Even if it did, the Petitioner did not attempt to compare most of the other lots to his lot in terms of relevant characteristics that affect value. And he did nothing to explain how relevant differences between the lots affected their values. *See Long*, 821 N.E.2d at 471 (holding that the taxpayers' sales data lacked probative value where they did not explain how the characteristics of their property compared to the characteristics of the purportedly comparable properties or how any differences affected values).

49. Finally, the Petitioner's claims that he was denied the opportunity to fully present his case before the PTABOA and that the PTABOA did not adequately explain his decision are beside the point. Appeals to the Board are *de novo*. The Petitioner had the opportunity to fully present his claims at our hearing. We base our decision on the evidence and arguments he presented to us without regard to what happened below.

SUMMARY OF FINAL DETERMINATION

50. Because the Petitioner had the burden of proof and offered no probative market-based evidence of his property's true tax value, he failed to make a prima facie case for changing the assessment. We therefore find for the Respondent and order no change.

This Final Determination of the above captioned matter is issued by the Indiana Board of Tax Review on the date first written above.

_____
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 not later than 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>.