

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition Nos.:** 52-012-22-1-5-00565-23  
52-012-23-1-5-00566-23  
**Petitioner:** H. Richard Hawkins  
**Respondent:** Miami County Assessor  
**Parcel:** 52-07-13-100-006.000-012  
**Assessment Years:** 2022 & 2023

The Indiana Board of Tax Review (“Board”) issues this determination in the above matter, and finds and concludes as follows:

**Procedural History**

1. H. Richard Hawkins appealed the 2022 and 2023 assessments of his property located at 3365 West 200 North in Peru.
2. These appeals have a somewhat lengthy procedural history, relevant portions of which include the following:

**For the 2022 appeal:**

April 29, 2022: The Miami County Assessor mailed the subject property’s 2022 Notice of Assessment of Land and Structures/Improvements – Form 11 on April 29, 2022.

June 9, 2023: Hawkins filed a Form 130 petition contesting his 2022 assessment. The Assessor mailed a Notice of Defect in Completion of Assessment Appeal Form – Form 138, which stated the Form 130 was not timely filed.

August 31, 2023: The Miami County Property Tax Assessment Board of Appeals (“PTABOA”) issued a Notification of Final Assessment Determination – Form 115 sustaining the 2022 assessment of \$155,800 (\$22,100 for land and \$133,700 for improvements). The PTABOA also stated the Petitioner’s 2022 Form 130 petition was untimely filed.

September 15, 2023: Hawkins filed a second Form 130 petition contesting his 2022 assessment with the Indiana Board of Tax Review. Hawkins also filed a Form 131 petition with the Board for his 2022 assessment.

**For the 2023 appeal:**

April 28, 2023: The Assessor mailed the subject property's 2023 Notice of Assessment of Land and Structures/Improvements – Form 11 on April 28, 2023.

June 6, 2023: Hawkins filed a Form 130 petition with the Assessor. This document is not in the record, but the Assessor admits Hawkins timely filed a Form 130 on this date.

June 23, 2023: Assessor signed a Form 134 and the PTABOA issued a Form 115 based on the Form 134 reducing the assessment to \$135,400 (\$22,100 for land and \$113,300 for improvements).

June 29, 2023: Hawkins signed the Form 134.

September 15, 2023: Hawkins filed a new Form 130 petition (signed Sep. 10, 2023) and a Form 131 petition (both with the Board) contesting his 2023 assessment. This filing did not include a 2023 Form 115.

September 27, 2023: The Board issued a Notice of Defect in Appeal Form to Hawkins informing him “the maximum time period to file directly with the Indiana Board of Tax Review has not lapsed. 180 days from the date of the Form 130 must pass in order to file directly with the Indiana Board of Tax Review.”

November 17, 2023: The Board issued a Final Determination for the 2023 assessment year that stated, “the petition is denied due to the Petitioner’s failure to comply with the Notice of Defect provisions of Indiana Code § 6-1.1-15-4.”<sup>1</sup>

November 28, 2023: Hawkins filed a request to “reactivate petition 57-012-23-1-5-00566-23 for years 2022 and 2023.”

December 7, 2023: The Board issued an Order correcting requiring Hawkins to provide a Form 115 for the 2023 assessment year.<sup>2</sup>

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<sup>1</sup> The Final Determination incorrectly listed Noble County and Orange Township instead of Miami County and Jefferson Township.

<sup>2</sup> The order also corrected the county and township.

December 15, 2023: Hawkins responded to the Board's December 7, 2023, order. However, he submitted a Form 115 for the 2022 assessment year instead of the 2023 assessment year.

January 22, 2024: The Board issued a "Rule to Show Cause Order" to Hawkins to show good cause why the Board should not dismiss his 2023 appeal as not properly before the Board. The Board also issued a Notice of Hearing on Petition for the 2023 assessment year for April 3, 2024.

3. The Petitioner elected to proceed under the Board's small claims procedures.
4. On April 3, 2024, Dalene McMillen, the Board's Administrative Law Judge ("ALJ"), held a telephonic hearing on both assessment years. Neither the Board nor the ALJ inspected the property.
5. H. Richard Hawkins and Miami County Assessor Karen LeMaster, testified under oath.

### **Record**

6. The parties submitted the following exhibits:

For the 2022 & 2023 appeals:

- Petitioner Exhibit 1: Notice of Hearing on Petition for pet. no. 52-012-23-1-5-00566-23,
- Petitioner Exhibit 2: Petitioner's exhibit coversheet for pet. no. 52-012-23-1-5-00866-23 (i.e. pet. no. 52-012-23-1-5-00566-23),
- Petitioner Exhibit 3: Petitioner description of issues for 2022 and 2023,
- Petitioner Exhibit 4: Three photographs of the subject property,
- Petitioner Exhibit 5: Table of historical assessed property values of the subject property,
- Petitioner Exhibit 6: 2019 Form 11 and property record card ("PRC") (front page only),
- Petitioner Exhibit 7: Small residential income property appraisal report for July 1, 2019, (page 4 only),
- Petitioner Exhibit 8: 2022 Form 11 and PRC (front page only),
- Petitioner Exhibit 9: 2023 Form 11,
- Petitioner Exhibit 10: Form 115 for January 1, 2023.

For the 2022 appeal:

Respondent Exhibit 1: Respondent write-up for assessment year 2022,  
Respondent Exhibit 2: Form 130 petition (page 1 only),  
Respondent Exhibit 3: Form 131 petition.

For the 2023 appeal:

Respondent Exhibit 1: Respondent write-up for assessment year 2023,  
Respondent Exhibit 2: Form 134 for January 1, 2023,  
Respondent Exhibit 3: Form 115,  
Respondent Exhibit 4: Form 131 petition (page 1 only).

- a) The record also includes the following: (1) all pleadings and documents filed in this appeal; (2) all orders, and notices issued by the Board or ALJ; and (3) a digital recording of the hearing.

**Objection**

7. The Respondent objected to Petitioner Exhibit 6, the 2019 Form 11 and one page of the property record card, on the grounds the exhibit was listed on the Petitioner's coversheet but was not exchanged. The ALJ overruled the objection because the documents were originally created by the Assessor. The Board adopts the ALJ's ruling.

**Contentions**

8. Summary of the Petitioner's case:

For the 2022 appeal:

- a) Hawkins testified he did not respond to the county's notices in 2022 because his wife passed away on May 26, 2022. *Hawkins testimony.*
- b) Hawkins argued that his property's assessed value has vacillated up and down since 2013. He noted the assessment was \$128,500 in 2013 and has increased to \$172,400 in 2023 without any change to the property. Hawkins argued that a property owner does not realize any monetary advantage while owning and living on the property, therefore the assessed value should not change until the property changes ownership. *Hawkins testimony; Pet'r Ex. 5.*

For the 2023 appeal:

- a) Hawkins testified that he signed the Form 134 out of "frustration." He stated that he no longer agrees with that value because of the unjustified vacillation of his

assessment over several years. He argued the value should be no more than the 2018 value of \$131,800, because there have been no changes to the property. *Hawkins testimony; Pet'r Ex. 5.*

- b) At the Board's hearing, Hawkins submitted his Form 115 for the 2023 assessment year. *Pet'r Ex. 10.*

9. Summary of the Respondent's case:

For the 2022 appeal:

- a) LeMaster testified that the county mailed the 2022 Form 11 for the subject property on April 29, 2022, which made the deadline to file a Form 130 petition June 15, 2022. Hawkins filed his Form 130 petition with the county on June 9, 2023, almost one-year past the deadline to file. LeMaster requested no change to the assessment because the appeal was not timely filed. *LeMaster testimony; Resp't Exs. 1-2.*

For the 2023 appeal:

- a) LeMaster testified the county timely mailed the 2023 Form 11 for the subject property on April 28, 2023, with a deadline to file a Form 130 petition of June 15, 2023. Hawkins filed a timely Form 130 petition on June 9, 2023. An informal conference via telephone was held on June 23, 2023, at which Hawkins agreed to an assessed value of \$135,400. Hawkins signed the Form 134 agreement on June 29, 2023. The PTABOA issued a Form 115 on June 23, 2023, approving the assessed value of \$135,400. *LeMaster testimony; Resp't Exs. 1-3.*
- b) LeMaster testified that Hawkins did not file his Form 131 petition until September 10, 2023, which is past the 45-day deadline for filing an appeal with the Board. LeMaster requested no change to the assessment because the Form 131 petition was not timely. *LeMaster testimony; Resp't Exs. 1 & 4.*

**Analysis**

10. We dismiss Hawkins' 2022 and 2023 appeals because he did not timely file his petitions.

For the 2022 appeal:

- a) A taxpayer may appeal an assessment of a taxpayer's tangible property by filing a notice in writing with the county assessor by June 15 of the assessment year if the notice of assessment is mailed by the county before May 1 of the assessment year. Indiana Code § 6-1.1-15-1.1(b)(2)(A). The Assessor mailed the Form 11 to Hawkins on April 29, 2022. Hawkins did not file his Form 130 petition with the Assessor until June 9, 2023, well past the June 15, 2022, deadline. Hawkins asked us to excuse his

late filing because of his personal circumstances. But the Board is a creation of the Legislature and has only the powers conferred by statute. *Whetzel v. Department of Local Government Finance*, 761 N.E.2d 904 (Ind. Tax Ct. 2002). No statute gives us the authority to waive or extend this statutory deadline. Thus, we are compelled to dismiss his appeal for the 2022 assessment year because his Form 130 petition was untimely.

- b) We also note that the second 2022 Form 130 petition Hawkins filed with the Board on September 15, 2023, is void because a Form 130 must be timely filed with the Assessor.

For the 2023 appeal:

- a) We first note that we issued an order to show cause for why the 2023 petition should not be dismissed because Hawkins failed to provide a Form 115. At the hearing, he did provide a Form 115 for the 2023 assessment year, but that revealed that his Form 131 petition was untimely.
- b) In order for the Board to review a county PTABOA's determination, a taxpayer must file a petition with us not later than 45 days after the county PTABOA gives notice of its determination. I.C. § 6-1.1-15-3(a)(1). The PTABOA mailed notice of its Form 115 determination for Hawkins' appeal of his 2023 assessment on June 23, 2023. Thus, Hawkins' deadline to appeal was August 7, 2023. Hawkins did not file his Form 131 petition with the Board until September 15, 2023. Even allowing three days for mailing pursuant to 52 IAC 4-4-3(e)(2), his Form 131 was filed over a month past the deadline.
- c) As discussed above, we do not have the authority to waive a statutory deadline. Thus, we must dismiss Hawkins' 2023 appeal because he did not timely file his Form 131 petition. Accordingly, we must dismiss his appeal.
- d) We also note that the second 2023 Form 130 petition Hawkins filed with the Board on September 15, 2023, is void because a Form 130 must be timely filed with the Assessor.

### **Conclusion**

- 11. We dismiss Hawkins' appeals of his property's 2022 and 2023 assessments because his petitions were untimely and order no change to the assessments.

ISSUED: June 28, 2024

  
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Chairman, Indiana Board of Tax Review

  
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Commissioner, Indiana Board of Tax Review

  
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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 after 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>.