

**Notes from Administrative Hearing on the Indiana Board of Tax Review’s Proposed Administrative Rule 52 IAC 4 (LSA Document #19-626)**

Ms. Betsy Brand and Mr. Jon Elrod, Commissioners for the Indiana Board of Tax Review (“Board”), and Ms. Jennifer Thuma, Administrative Law Judge, attended the hearing for the Board. Mr. Brent Auberry, partner with Faegre Drinker Biddle & Reath, and Ms. Marilyn Meighen, of Meighen & Associates, P.C., attended the hearing as members of the public. Mr. Auberry and Ms. Meighen signed the sheet provided by the Board for members of the public to indicate attendance. No other members of the public or IBTR representatives attended the hearing.

The hearing took place in the Indiana Government Center South, conference rooms 4 and 5, as noted in the Notice of Hearing, published by *The Indiana Register* and in *The Indianapolis Star*. The hearing, which was recorded, began a little after 10:00 a.m., to allow any additional members of the public to arrive and be seated.

Ms. Thuma introduced herself as well as Ms. Brand and Mr. Elrod to identify them for the record. She then asked for public comment. Mr. Auberry and Ms. Meighen provided comments as noted below, after identifying themselves for the recorded record. After providing for as much time as Mr. Auberry and Ms. Meighen wished to provide comments, the hearing was closed after approximately 5 minutes of testimony and the introductory welcome by the board. The recording of the hearing was saved to a file dedicated to the administrative rules process on the IBTR’s shared computer drive.

**Public Comments Received at the February 28, 2020 Hearing on the Board’s Proposed Administrative Rule 52 IAC 4 (LSA Document # 19-626)**

**The Board posted the following comments to its Administrative Rulemaking docket via its website.**

Mr. Brent Auberry, Partner with Faegre Drinker Biddle & Reath and Ms. Marilyn Meighen, of Meighen & Associates, P.C., attended the hearing and provided the following comments on the proposed administrative rules.

Mr. Auberry thanked the Board for updating, streamlining and improving its administrative rules. He expressed appreciation for the Board’s effort and noted that he saw no red flags in the draft rules.

Ms. Meighen shared that she echoed Mr. Auberry’s sentiment. She also shared that the Board may wish to look closely at the definition of “small claims” in that the proposed definition requires that both parties agree to proceed under the small claims procedures to utilize these procedural rules. She stressed that she wanted to be sure to follow the rules and was not sure how this definition would be applied if one party did not agree to proceed under the small claims procedures.

**Additional Note:**

In the weeks prior to the hearing, the Board circulated drafts of the proposed administrative rules to the leadership of the tax section of the state and local bar associations as they were updated and revised over the recent past months. The Board received no comments, suggestions, or requested changes at any point.

As of March 2, 2020, the Board has received only the verbal comments provided at the hearing. No additional written or verbal comments have been received from any member of the public.

**IBTR Response to Comments Received at the Hearing:**

The Board appreciates the helpful feedback and input of Mr. Auberry, a lawyer representing many taxpayers in proceedings before the Board, and Ms. Meighen, a lawyer representing many county assessors in property tax appeal cases. The Board always appreciates and is open to comments and feedback on rules and processes, finding that such input makes for an even better work product for all concerned.

In response to Ms. Meighen's feedback, we carefully reviewed and studied again the definition of "small claim" in proposed 52 IAC 4-2-13 and related it to other references to "small claim" within the proposed rule. We understand her point, but think that the references throughout the remainder of the rules clarify her point. Both parties must agree to submit the case to the small claims procedures. If a party objects or files a motion to remove the appeal from the Board's small claims process within the required procedures outlined in the proposed rule, then the Board would allow the appeal to proceed under the Board's regular docket instead of small claims.

**Other**

The final rule may be in effect in approximately late May or June, depending upon the timetable for review by the Advisory Section of the Indiana Attorney General's Office, which has 45 days to review for form and legality, and the Governor's Office, which has up to 30 days to review a proposed submitted rule. This rule, as stated in the proposed rule, will be effective 30 days after receipt by the publisher, the *Indiana Register*.