



Department of Local Government Finance

Appeals and the PTABOA

Barry Wood
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Disclaimer

- The Department of Local Government Finance (DLGF) does not get involved in individual property tax assessments or appeals. The following information should not be construed as legal advice, and any legal questions or issues should be directed to your county attorney.



Agenda

- PTABOA Roles & Responsibilities
- Legislative Changes
- Best Practices
- Common Issues/Problems
- Questions



PTABOA Roles & Responsibilities



PTABOA – Board Types

HEA 1001 – 2009(ss)

- Allows the county commissioners to determine if they want a three (3) or five (5) member Property Tax Assessment Board of Appeals (PTABOA) (effective July 1, 2009).

SEA 87 – 2016

- Authorizes the creation of a multiple county PTABOA starting January 1, 2017.

Ind. Code § 6-1.1-28-0.1; Ind. Code § 6-1.1-28-1



Five (5) Member PTABOA

- Commissioners appoint three (3) members.
- County fiscal body (i.e., Council) appoints two (2) members.
- At least one (1) of the members appointed by the fiscal body must be a Level II or III assessor-appraiser.
- At least one (1) of the commissioners' appointments must be a Level II or III; however, they may waive this requirement. The county fiscal body may waive this as well.
- Members must be at least eighteen (18) years of age and “knowledgeable in the valuation of property.”

Ind. Code § 6-1.1-28-1



Three (3) Member PTABOA

- The county fiscal body appoints one (1) individual who must be a Level II or III assessor-appraiser.
- The commissioners appoint two (2) freehold members.
- At least one (1) of the commissioners' appointments must be a Level II or III; however, they may waive this requirement. The county fiscal body may waive this as well.
- Members must be at least eighteen (18) years of age and “knowledgeable in the valuation of property.”

Ind. Code § 6-1.1-28-1



Multiple County PTABOA

- The multiple county PTABOA must consist of the entire geographic area of all participating counties.
- Each multiple county PTABOA must consist of either of the following number of members:
 - 1) Three members, not more than two (2) of whom may be from the same political party.
 - 2) Five members, not more than three (3) of whom may be from the same political party.
- The ordinance must specify the number of members of the multiple county PTABOA.

Ind. Code § 6-1.1-28-0.1; Ind. Code § 6-1.1-28-0.2



Multiple County PTABOA

- Each member of a multiple county PTABOA must be at least 18 and knowledgeable in the valuation of property. A majority of the members of a multiple county PTABOA must have attained the certification of a level two or a level three assessor-appraiser under IC 6-1.1-35.5.
- The following individuals may not be members of a multiple county PTABOA:
 - 1) An elected county official.
 - 2) An employee of a county or township that is in the geographic area within the jurisdiction of the multiple county PTABOA.
 - 3) An appraiser (as defined in IC 6-1.1-31.7-1) in a county that is in the geographic area within the jurisdiction of the multiple county PTABOA.



Multiple County PTABOA

- The members of a multiple county PTABOA are to receive compensation as determined jointly by the fiscal bodies of each participating county. (IC 6-1.1-28-8).
- Under IC 6-1.1-28-0.5, the county assessor for the county that has the greatest population of the counties participating in a multiple county PTABOA must provide administrative support to the multiple county PTABOA.

Ind. Code § 6-1.1-28-0.3; Ind. Code § 6-1.1-28-0.5



Annual PTABOA Meeting

- Per Indiana Code § 6-1.1-28-6, there shall be an annual meeting of the PTABOA.
- Notice of the annual session shall be given:
 - Two (2) weeks before the first meeting of the board by publication in two (2) newspapers of general circulation which are published in the county; or
 - In one (1) newspaper of general circulation published in the county if the requirements of the first clause cannot be satisfied; and the posting of the notice on the county assessor's Internet website.

Ind. Code § 6-1.1-28-6



Preliminary Hearings

- Assessors schedule a preliminary conference with the taxpayer at a time convenient to the taxpayer.
- Prior to the preliminary conference, the assessor and taxpayer exchange the information each will be relying on at the time of the preliminary conference.
- If either the taxpayer or the assessor obtain additional information after the preliminary meeting but before the PTABOA hearing, that information has to be given to the other party.

Ind. Code § 6-1.1-15-1.2



Information Sharing

- Note: There is no timeframe for when this information has to be shared: Is it one day before the PTABOA hearing? Fifteen minutes before the PTABOA hearing?
- If either the taxpayer or assessor provided information for the first time at the PTABOA hearing, the PTABOA shall continue the hearing until the receiving party has an opportunity to look at the additional information.
 - The required continuance can be waived by the person receiving the new information.
 - The PTABOA is required to give 30 days notice of the hearing. Ind. Code § 6-1.1-15-1.2(d). The taxpayer and the assessor can agree to a shorter notice period.

Ind. Code § 6-1.1-15-1.2



Initiating Appeal with IBTR

- If more than one hundred eighty (180) days have passed since the date the notice of appeal was filed, and the county PTABOA has not issued a determination, a taxpayer may initiate an appeal with the Indiana Board of Tax Review (IBTR).
- Instead of a hearing before the PTABOA, a taxpayer and a township or county official may enter into an agreement in which both parties:
 - 1) Agree to waive a determination by the PTABOA and submit the dispute directly to the IBTR; or
 - 2) Stipulate to the assessed value of the tangible property in dispute as determined by an independent appraisal.

Ind. Code § 6-1.1-15-1.2; 2.5



Confidential Evidence

- An appeal could result in the presentation of confidential evidence.
 - The hearing is recorded.
 - If the PTABOA receives a confidential record, the PTABOA must maintain the confidentiality of such record.

Ind. Code § 5-14-1.5-2.9; Ind. Code § 6-1.1-35-9



Confidential Information

- The PTABOA can go into executive session to discuss confidential information. However, the hearing should not be stopped to start an executive session.
- Process for an executive session:
 - Indiana Code § 5-14-1.5-6.1
 - “Executive sessions may be held only in the following instances: ... For discussion of records classified as confidential by state or federal statute.”
 - The PTABOA may not take FINAL action.

Ind. Code § 5-14-1.5-6.1



Open Door Law

- Purpose: To ensure that official action involving public business of public agencies be conducted and taken openly; and to keep the public informed.
 - The PTABOA is subject to the Open Door Law.
 - The PTABOA meeting is a gathering of a majority for the purpose of taking official action upon official business.
 - Public notice of the date, time, and place of any meeting must be given at least 48 hours prior to the meeting.

Ind. Code § 5-14-1.5



“Official Action”

- What is “Official Action?”
 - The term is fairly broad and would include hearings and deliberation by the PTABOA.
 - The following constitutes official action:
 - Receiving information.
 - Deliberating.
 - Making recommendations.
 - Establishing policy.
 - Making decisions.
 - Taking final action.

Ind. Code § 5-14-1.5-2



PTABOA Compensation

- Compensation & policies are local issues.
- Board members shall receive compensation on a per diem basis for each day of actual service.
- The county council shall fix the rate of compensation.
- The county assessor shall keep an attendance record.
- Certifies the number of days to the county commissioners.

Ind. Code § 6-1.1-28-0.3; Ind. Code § 6-1.1-28-3



Field Representatives

- The Board may hire additional field representatives and hearing examiners to assist the Board in performing its duties and functions.
- Representatives and examiners must be Level II or III certified.
- The number and compensation of representatives and examiners employed are subject to the appropriations for that purpose by the county council.

Ind. Code § 6-1.1-28-10; Ind. Code § 6-1.1-28-11



Field Representatives

- Representatives and examiners are afforded the same powers as members of the Board concerning the review of and hearings on an assessment.
- Representatives and examiners shall report their findings to the Board in writing.
- The Board can accept the representatives and examiner's recommendation or hold further hearings and take additional evidence.
- The Board makes the final decision on each matter.

Ind. Code § 6-1.1-28-10; Ind. Code § 6-1.1-28-11



PTABOA Powers

- The Board has the power to:
 - Subpoena witnesses.
 - Examine witnesses, under oath, on the assessment or valuation of property.
 - Compel witnesses to answer its questions relevant to the assessment of valuation of property.
 - Order the production of relevant papers.

Ind. Code § 6-1.1-28-9



PTABOA Report

- The PTABOA must submit a report to the DLGF and Legislative Services Agency (“LSA”) through Gateway before January 15 annually.

Ind. Code § 6-1.1-28-12



Legislative Changes



PTABOA Member Terms

- **House Enrolled Act 1328-2024**
- Previously, Ind. Code § 6-1.1-28-1(h) specified that the term of a member of the county property tax assessment board of appeals was one (1) year and began on January 1.
- Section 18 of HEA 1328 amended Ind. Code § 6-1.1-28-1(h) to provide that the term of a member of the county property tax assessment board of appeals must be staggered to ensure that the appointment of a majority of the board does not expire in any single year. A board member's term will still begin on January 1, and the requirement for term staggering applies to three (3) member boards, as well as five (5) member boards.

Ind. Code § 6-1.1-28-1



Best Practices



Taxpayer Interactions

- “The Golden Rule:” PTABOA members should treat one another, taxpayers, and the assessing official how you would want to be treated.
- Although a PTABOA is not a trial per se, each PTABOA member should conduct himself or herself the way any other judge would.



Burden Shifting Statute

- In 2022, the General Assembly passed Indiana Code § 6-1.1-15-20. The new statute provides that if a property's assessment increased more than 5% over its assessment for the prior tax year, the assessment loses the presumption of correctness, and the assessing official has the burden of proof. I.C. § 6- 1.1-15-20(b).
- However, the burden-shifting provisions do not apply if the assessment on appeal is based on substantial renovations or new improvements, zoning, or uses that were not considered in the assessment for the prior year. I.C. § 6-1.1-15-20(d).
- Additionally, the new burden-shifting statute only applies to appeals filed with the township assessor, or the county assessor if the township is not served by a township assessor, after March 21, 2022. I.C. § 6-1.1-15-20(h).



The Hearing

- Upon receipt of the petition, the PTABOA shall hold a hearing not later than 180 days after the petition filing date. The PTABOA shall mail notice of the date, time, and place fixed for the hearing at least 30 days before the hearing. This notice is given to the taxpayer, the tax representative (if any), the assessing official, and the county auditor.
- The PTABOA shall grant a written request for continuance showing good cause. The request must be filed at least ten (10) days before the hearing. When the request is granted, the PTABOA shall then reschedule the hearing.

Ind. Code § 6-1.1-15-1.2



Appeal Withdrawal

- The taxpayer may withdraw in writing an appeal at least 10 days before the hearing. Upon filing of the withdrawal, the PTABOA shall issue a final assessment determination indicating the withdrawal and no change in assessment. This withdrawal also waives the taxpayer's right to appeal to the IBTR.

Ind. Code § 6-1.1-15-1.2



Hearing Continuance

- If good cause is shown, the county Property Tax Assessment Board of Appeals (Board) shall grant a request for continuance filed in writing at least ten (10) days before the hearing and reschedule the hearing accordingly.

Ind. Code § 6-1.1-15-1.2



Hearing Protocol

- In terms of conducting the hearing:
 - The taxpayer must have the opportunity to present testimony and evidence.
 - If matters on appeal are in the discretion of the county auditor, the auditor or the auditor's representative shall attend the hearing.
 - The assessing official or the auditor (as applicable) must also have the opportunity to present testimony and evidence.
 - The PTABOA may then adjourn and continue the hearing to make a physical inspection or consider the evidence presented.

Ind. Code § 6-1.1-15-1.2



PTABOA Determination

- The PTABOA shall determine the assessment by motion and majority vote based on the evidence presented. The PTABOA shall then issue a written decision, given to the assessing official, county auditor, and taxpayer.
- If the PTABOA has not issued a determination before 180 days have passed since the filing of the petition, the taxpayer may initiate an appeal with the IBTR.

Ind. Code § 6-1.1-15-1.2



Failure to Appear

- If a taxpayer or tax representative fails to appear at the hearing and a request for continuance is denied or not filed, or any other written request from the taxpayer allowed by statute is not filed, the county assessor may impose a \$50 penalty. The taxpayer may appeal the imposition of the penalty to the IBTR or directly to the Tax Court. The penalty will not be added as an amount owed on the tax bill.

Ind. Code § 6-1.1-15-1.2



Power of Attorney & Representation

- Indiana Code 6-1.1-15-17.3 addresses the scope of who may represent a taxpayer in a property tax appeal.
- The owner of a property subject to appeal may appoint a relative (defined in IC 2-2.2-1-17) for specific assessment years to represent the owner before the PTABOA or the Department.
- The relative may not represent the owner before the IBTR. The relative is not required to be certified as a tax representative in order to represent the owner.

Ind. Code § 6-1.1-15-17.3



Definition of “Relative”

- Under IC 2-2.2-1-17, a relative includes the following:
 - 1) The individual's spouse.
 - 2) A parent of the individual or a parent of the individual's spouse.
 - 3) A child of the individual or a child of the individual's spouse.
 - 4) A sibling of the individual or a sibling of the individual's spouse.
 - 5) An aunt or an uncle of the individual or an aunt or an uncle of the individual's spouse.
 - 6) A niece or nephew of the individual or a niece or nephew of the individual's spouse.

Ind. Code § 2-2.2-1-17



Definition of “Relative” (cont.)

- 7) A grandparent of the individual or a grandparent of the individual's spouse.
- 8) A grandchild of the individual or a grandchild of the individual's spouse.
- 9) A great-grandparent of the individual or a great-grandparent of the individual's spouse.
- 10) A great-grandchild of the individual or a great-grandchild of the individual's spouse.
- 11) The term also includes adopted relatives, half-bloods, and relatives by marriage or remarriage.

Ind. Code § 2-2.2-1-17



Prima Facie Case

- *So how do I, as a Board member, decide that a prima facie case has been made?*
- That decision must be determined on a case-by-case basis as the evidence and circumstances on each hearing will vary. Becoming familiar with the available resources, such as IBTR decisions, Tax Court decisions, etc. could be very helpful.



PTABOA Candidates

- *We are having a difficult time finding qualified individuals to serve on our PTABOA. Can our prior assessor serve on our PTABOA?*
- The Department is not aware of any statutory provision that would prevent a former assessing official from serving on the PTABOA. However, from a public perception perspective, it may not look so good. Please note there is a prohibition on former assessing officials serving as a tax representative in their former jurisdiction.



Visiting Property on Appeal

- *Should the PTABOA visit the properties on appeal?*
- Conducting an on-site inspection would be a rare occurrence when considering the Board's use of time and budgetary constraints.



PTABOA Majority

- *Is the determination based on the majority of the quorum or the whole board?*
- IC 6-1.1-28-1(e) states, in pertinent part: “Any question properly before the board may be decided by the agreement of a majority of the **whole board.**”

Ind. Code § 6-1.1-28-1



Common Issues/Problems



Evidence

- *What type of evidence is required in the appeal process?*
- There are a variety of things a taxpayer may use/request to be considered in the appeals process, including:
 - A USPAP compliant appraisal (Note: An appraisal is not required in the appeal process).
 - Actual construction costs (both Direct and Indirect).
 - The sale of the subject property (if an “arms-length” transaction).
 - Sales of comparable properties.

Ind. Code § 6-1.1-15-1.2



Comparable Properties

- The determination of whether properties are comparable shall be made using generally accepted appraisal and assessment practices.
 - “A party must explain how the evidence relates to the appealed property’s market value-in-use as of the relevant valuation date.” See *O’Donnell v. Dep’t of Local Gov’t Fin.*, 854 N.E.2d 90, 95 (Ind. Tax Ct. 2006); see also *Long v. Wayne Twp. Ass’r*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
 - “The taxpayer must explain how each piece of evidence relates to the requested assessment.” *Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004).



Evaluation of Evidence

- An assessor cannot simply say that they reviewed the taxpayer's evidence and decided that it was not valid.
- They must be able to challenge it based on its merit and be able to demonstrate that the evidence lacks credibility.
- This challenge could be accomplished by identifying specific flaws in the taxpayer's evidence or by submitting evidence to demonstrate the flaws.



Appraisals

- Appraisals need to be analyzed to determine sales comparable being used in relationship to subject property. Adjustments being made to these sales comparable also should be analyzed.
- For income producing properties, income and expense statements.
- **Specific Methodology:** Some property types, such as Rental Properties, Low Income Housing, and Golf Courses are statutorily required to be assessed using prescribed methods (e.g., the income approach to value).



Appropriateness of Appeal

- *Who Can File an Appeal?*
- The taxpayer of record on the assessment date. Additionally, the IBTR has previously ruled that others with an interest in the property may file an appeal (i.e., a person other than the taxpayer on the assessment date may file an appeal if they are responsible for the property taxes due for that assessment date, even though they may not have owned the property on the assessment date).
- *What if an Appeal is Not Timely Filed?*
- Although taxpayers ultimately may not be successful with their appeal, their due process rights should be upheld, and they should be allowed to file an appeal.



Preliminary Hearing Procedures

- *Can the assessor have a set amount of time for each preliminary hearing (e.g., 15 minutes)?*
- Deference is given to local control, meaning the local officials can determine a set timeframe, hearing schedule, or procedures for the preliminary hearing. Also, the PTABOA may determine their own procedural rules.



Assessed Value Change

- **Can the assessed value be increased if a taxpayer files an appeal?**
- Per Indiana Code 6-1.1-15-1.2(m), the assessed value may only be increased if the change is attributable to renovation, new improvements, zoning changes or use change:
- (m) The determination of an appealed assessed value of tangible property by a county or township official resulting from an informal meeting under subsection (a), or by a county board resulting from an appeal hearing under subsection (d), may be less than or equal to the tangible property's original appealed assessed value at issue, but may not exceed the original appealed assessed value at issue. However, an increase in assessed value that is attributable to substantial renovation, new improvements, zoning change, or use change is excluded from the limitation under this subsection.



Assessed Value Change

- There is another provision that could result in a change in assessed value as a result of filing an appeal:
- Per Indiana Code 6-1.1-15-1.2 (h):
- (h) If a taxpayer appeals the assessment of tangible property under section 1.1 of this chapter, the taxpayer is not required to have an appraisal of the property in order to initiate the appeal or prosecute the appeal. If the taxpayer presents an appraisal to the county board that:
 - 1) is prepared by a certified appraiser in compliance with the Uniform Standards of Professional Appraisal Practice to determine the market value in use;
 - 2) is addressed to the property owner or the assessor's office;
 - 3) is commissioned for the purpose of the assessment appeal; and
 - 4) has an effective date that is the same date as the date of the assessment that is the subject of the appeal;



Assessed Value Change

- the value of the property contained in the appraisal is presumed to be correct. If the county board disagrees with the taxpayer's appraisal, the county board may seek review of the appraisal by a third party independent certified appraiser or obtain an independent appraisal report conducted by a certified appraiser in compliance with the Uniform Standards of Professional Appraisal Practice. If the county board's appraisal differs from the taxpayer's appraisal, the county board shall weigh the evidence and determine the true tax value of the property based on the totality of the probative evidence before the county board. The county board's determination of the property's true tax value may be higher or lower than the assessment but may not be lower than the lowest appraisal presented to or obtained by the county board, or higher than the highest appraisal presented to or obtained by the county board. After the assignment of value, the parties shall retain their rights to appeal the assessment or assessments to the Indiana board, which must hear the appeal de novo.



Assessed Value Change

- But wait, there's more:
- Per Indiana Code 6-1.1-13-13:
- IC 6-1.1-13-13 Limitation on increasing the assessed value of real property when a taxpayer has prevailed on appeal
- Sec. 13. (a) This section applies to both residential real property and commercial property, with an assessed value of three million dollars (\$3,000,000) or less, for which the assessed value was increased for a tax year by an assessing official for any reason other than by the application of the annual adjustment factor used by the assessing official to adjust property values for that year. However, this section does not apply to an assessment if the assessment is based on:
 - 1) structural improvements;
 - 2) zoning; or
 - 3) uses;
- that were not considered in the assessment for the prior tax year.



Assessed Value Change

(b) If the taxpayer:

- 1) appeals an increased assessment as described in subsection (a) to the county property tax assessment board of appeals or the Indiana board; and
- 2) prevails in an appeal described in subdivision (1) or any resulting subsequent appeal of the increased assessment described in subsection (a); the assessing official shall not increase the assessed value of the property until the first year of the next four (4) year cyclical assessment cycle for any reason other than by application of the annual adjustment factor used by the assessing official to adjust property values for a tax year. During this period, the taxpayer may not appeal an increased assessment made by the assessor unless the taxpayer believes that the increased assessment is arbitrary and capricious and not made consistent with the annual adjustment factor used by the assessing official to adjust property values for a tax year. If the taxpayer does appeal during this period on the grounds that the increased assessment is arbitrary and capricious and not made consistent with the annual adjustment factor used by the assessing official to adjust property values for a tax year, the provision shifting the burden to the assessing official to prove that the assessment is correct under [IC 6-1.1-15-17.2](#)(d) (before its repeal) or [IC 6-1.1-15-20](#) does not apply.



Assessed Value Change

- (c) This section does not apply if:
 - 1) the reduction in assessed value is the result of a settlement agreement between the taxpayer and the assessing official; or
 - 2) the appeal is based on a correction of error under [IC 6-1.1-15-1.1\(a\)](#) and [IC 6-1.1-15-1.1\(b\)](#).
- (d) If the taxpayer who appealed an increased assessment under this section sells the property, whose assessment was appealed, for fair market value, notwithstanding subsection (b), the assessor may reassess the property that was sold.
- As added by P.L.178-2021, SEC.2. Amended by P.L.174-2022, SEC.29.



CPA Representation

- *Can a CPA file an appeal on a taxpayer's behalf on real estate?*
- Per 50 IAC 15-5-1(3)(d), states in part that a CPA is not considered a tax representative, and thus does not require certification by the Department, when the CPA is representing a taxpayer in a matter that relates to personal property only.



Form 11 vs. Tax Statement

- The taxpayer must file a separate petition for each parcel. The petition may be filed any time after the assessing official's action, but not later than the following:
 - June 15 of the assessment year, if the notice of assessment is mailed by the county before May 1 of the assessment year; or
 - June 15 of the year in which the tax bill is mailed by the county treasurer, if the notice of assessment is mailed by the county on or after May 1 of the assessment year, whichever is earlier.

Ind. Code § 6-1.1-15-1.1



Form 11s

- *Some Form 11's state that taxpayers can only appeal the total value (i.e., they cannot appeal only land or structures). Is this true?*
- The IBTR has almost always said that taxpayers cannot appeal one or the other (land or improvements only). They have had a couple of cases in the last 2 years in which they did analyze the appeal based only on land or improvements only.
- So, while the county is generally stating that accurately about the IBTR, they should not state that in the Form 11. The county should review all appeals and make decisions.



Questions?



Appeals and the PTABOA

- Barry Wood
 - Telephone: 317-232-3762
 - Email: bwood@dlgf.IN.gov
- Website: www.in.gov/dlgf
 - “Contact Us” <https://www.in.gov/dlgf/contact-us/>