BEFORE THE
INDIANA BOARD OF TAX REVIEW

Gary II LLC, Petitioner,	)	Petition Nos.: 45-004-17-1-5-00116-21 45-004-17-1-5-00117-21 45-004-17-1-5-00118-21 45-004-17-1-5-00119-21 45-004-17-1-5-00020-21
v.	)	Parcel Nos.: 45-08-15-127-003.000-004 45-08-15-151-025.000-004 45-08-15-152-021.000-004 45-08-15-152-023.000-004 45-08-15-152-025.000-004
Lake County Assessor, Respondent.	)	County: Lake Assessment Year: 2017

ORDER GRANTING MOTION TO DISMISS

On April 28, 2026, the Assessor filed a motion asking the Board to substitute a Chapter 7 Bankruptcy Trustee as the real party in interest, or in the alternative, to dismiss these appeals. The Assessor submitted evidence indicating Gary II LLC filed for Chapter 11 bankruptcy on September 17, 2017. In May of 2023, the Chapter 11 bankruptcy was converted to a Chapter 7 bankruptcy and Daniel L. Freeland was appointed as the Trustee. We held hearings on these petitions on April 29, 2026. At the hearings, Andrew Young, the owner of Gary II LLC and the authorized representative that filed the bankruptcy, argued that he was also a real party in interest in addition to the Trustee and that he should be allowed to proceed with the appeals because of delays caused by the Assessor. Mr. Young provided no legal authority to support these assertions.

On May 29, 2026, we issued an Order to Show Cause directing the Chapter 7 Trustee to file an appearance within 45 days. In addition, we gave Mr. Young 45 days to provide a response with legal authority that supported his request to pursue these appeals despite the pending Chapter 7 bankruptcy. To date, the Trustee has not filed an appearance, and Mr. Young has not filed a response.

In legal proceedings such as appeals before the Board, an action must be prosecuted by the real party in interest. Ind. Trial Rule 17; *Bielski v. Zorn*, 627 N.E.2d 880, 888-89 (Ind. Tax Ct. 1994). When an entity is in Chapter 7 bankruptcy, the debtor is no longer the real party in interest and lacks authority to pursue claims unless they have been abandoned by the Chapter 7 trustee. 11 U.S.C. § 323(a)-(b); *Hammes v. Brumley*, 659 N.E.2d 1021, 1025 (Ind. 1995).

Mr. Young failed to show that these claims were abandoned by the Trustee or otherwise excluded from the bankruptcy estate. In addition, the Trustee had an opportunity to appear pursuant to Indiana Trial Rule 17 but failed to do so. Because we lack the real party in interest, we grant the Assessor's motion and dismiss the above-captioned petitions.

Issued: JUN 24, 2026

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>.

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