

REPRESENTATIVE FOR PETITIONER:

Jeffrey R. Norris, Attorney

REPRESENTATIVE FOR RESPONDENT:

Catherine Lane, Knox County Assessor

**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

Raglesville Lake Golf, LLC	)	Petition No.:	42-022-10-1-4-00014
	)		42-022-11-1-4-00012
Petitioner,	)		42-022-10-1-5-00060
	)		42-022-11-1-4-00013
	)		
	)		
	)	Parcel No.:	42-12-23-208-016.000-022
v.	)		42-12-23-208-010.000-022
	)		
	)	County:	Knox
	)		
Knox County Assessor,	)	Township:	Vincennes
	)		
Respondent.	)	Assessment Year:	2010 and 2011

Appeal from the Final Determination of the  
Knox County Property Tax Assessment Board of Appeals

**March 26, 2015**

**FINAL DETERMINATION**

The Indiana Board of Tax Review (the “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**

### **PROCEDURAL HISTORY**

1. In these assessment appeals, Rattlesville Golf LLC (the “Petitioner”) contested the 2010 and 2011 assessments for the above-referenced parcels. On August 2, 2013, the Knox County Property Tax Assessment Board of Appeals (the “PTABOA”) issued its determinations. The Petitioner timely filed Form 131 petitions with the Board on September 13, 2013.

### **HEARING FACTS AND OTHER MATTERS OF RECORD**

2. A hearing was held on January 15, 2015, before Jacob Robinson, the duly designated Administrative Law Judge (the “ALJ”) authorized by the Board. Neither the Board nor the ALJ inspected the subject property.
3. Attorney Jeffrey R. Norris represented the Petitioner. Knox County Assessor Catherine Lane (the “Respondent”) appeared pro se.
4. The following people were sworn in as witnesses and testified under oath at the hearing:  

For the Petitioner:	Brett Melton, CEO, Rattlesville Lake Golf, LLC Peter A. Parsons, CPA, Parsons & Associates, PC
For the Assessor:	Catherine Lane, Assessor <sup>1</sup>
5. The Petitioner submitted the following exhibits:  

Petitioner Exhibit 1:	Profit & Loss Statement - Jan. thru Dec. 2010
Petitioner Exhibit 2:	Profit & Loss Prev. Year Comparison - Jan. thru Dec. 2011
Petitioner Exhibit 3:	Form 1065 Partnership Tax Return - 2010
Petitioner Exhibit 4:	Form 1065 Partnership Tax Return - 2011
Petitioner Exhibit 5:	Tax Assessment Calculation Worksheet – 2010, 2011 & 2012
Petitioner Exhibit 6:	Form 1065 Partnership Tax Return - 2012

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<sup>1</sup> Amy Conner, Knox County Deputy Assessor, was sworn in, but did not testify at the hearing.

6. The Assessor did not submit any exhibits.
  
7. The Board recognizes the following additional items as part of the record of proceedings:
 

Board Exhibit A:	Form 131 Petitions and attachments
Board Exhibit B:	Notices of Hearing
Board Exhibit C:	Hearing Sign-In Sheet
  
8. The subject property consists of two parcels totaling approximately 114 acres of land, on which an 18-hole golf course and various improvements are situated. The parcels are located at 2715 Washington Avenue in Vincennes.
  
9. The PTABOA determined the assessed values of the subject property to be:
 

Parcel 42-12-23-208-016.000-022:		
2010: Land: \$109,700	Improvements: \$744,600	Total: \$854,300
2011: Land: \$109,700	Improvements: \$645,000	Total: \$754,700
Parcel 42-12-23-208-010.000-022:		
2010: Land: \$22,700	Improvements: \$0	Total: \$22,700
2011: Land: \$22,700	Improvements: \$0	Total: \$22,700

**BURDEN OF PROOF**

10. Generally, a taxpayer seeking review of an assessing official's determination has the burden of proving that a property's assessment is wrong and what its correct assessment should be. *Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998). 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). If the taxpayer makes a prima facie case, the burden shifts to the assessor to offer evidence to impeach or rebut the taxpayer's evidence. *American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *see also Meridian Towers*, 805 N.E.2d at 479.

11. Indiana Code § 6-1.1-15-17.2, as amended, creates an exception to that general rule and assigns the burden of proof to the assessor in two circumstances. First, where the assessment under appeal represents an increase of more than 5% over the prior year's assessment for the same property, the assessor has the burden of proving that the assessment under appeal is correct. Ind. Code § 6-1.1-15-17.2(b). This provision may not apply if there was a change in the property's improvements, zoning or use. Ind. Code § 6-1.1-15-17.2(c). Second, the assessor has the burden where a property's gross assessed value was reduced in an appeal, and the assessment for the following assessment date represents an increase over "the gross assessed value of the real property for the latest assessment date covered by the appeal regardless of the amount of the increase..." Ind. Code § 6-1.1-15-17.2(d). This provision may not apply if the assessment was determined using the income approach to value. *Id.*
12. In any case, if an assessor has the burden and fails to meet it, the taxpayer may offer evidence to prove the correct assessment. If neither party offers evidence that suffices to prove the property's correct assessment, it reverts to the previous year's value. I.C. § 6-1.1-15-17.2(b).
13. The parties agreed on the record that the Respondent has the burden of proof in this appeal.<sup>2</sup>

#### **SUMMARY OF RESPONDENT'S CONTENTIONS**

14. The Respondent contends that the Petitioner's appeals for the 2010 and 2011 assessments were not timely filed. She testified that the subject property was purchased by the Petitioner in April of 2010. Mr. Melton visited the Respondent in person on April 28, 2011, after receiving the Petitioner's first tax bill. Mr. Melton asked the Respondent if

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<sup>2</sup> Typically, when subsequent assessment years are at issue, the Board will defer its determination as to the burden with regard to subsequent years until after consideration of prior years. However, as discussed herein, these appeals turn on procedural issues and such consideration is not necessary.

something could be done with the property record card (“PRC”). Mr. Melton was aware of various new laws in effect and the Respondent agreed to examine the PRC. There were some adjustments made to the PRC for an error on one of the Petitioner’s buildings, so the Respondent corrected it and had a new tax statement sent out. Later on during that year, Mr. Melton brought in a QuickBooks analysis of the Petitioner’s profits and losses.<sup>3</sup> The Respondent instructed him to bring in “tax records.” *Lane Testimony.*

15. The next year Mr. Melton received the tax bill and subsequently visited the Respondent. The Respondent made various adjustments again and lowered the assessment to some degree. Shortly after, Mr. Melton brought in another profit and loss statement to supplement the information for that year. The Respondent reminded Mr. Melton that she additionally needed certain tax statements. The Respondent told Mr. Melton that she needed three years so she could establish an average going forward. Although the Respondent did receive a breakdown of the Petitioner’s real estate financial reports, she still did not receive the tax records she had requested. *Lane Testimony.*
16. Ms. Lane testified that the first time the Petitioner filed an appeal was in 2012.<sup>4</sup> The Petitioner had missed the deadline for 2010 and 2011 and the Respondent still hadn’t received any tax documents from the Petitioner. Mr. Melton did bring all of the Petitioner’s tax documents to the PTABOA hearing. The PTABOA brought those documents back to the Respondent and she reviewed them. Based on those documents, the Respondent and the Petitioner were able to come to an agreement for 2012, 2013 and 2014. However, the Respondent did not feel she could revisit 2010 and 2011 because she did not have the established average amounts that she needed. The Respondent and the PTABOA denied the Petitioner for 2010 and 2011 based on untimely filing. The

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<sup>3</sup> Both parties referred to the Petitioner’s profit and loss statements as “QuickBooks” throughout their respective testimony.

<sup>4</sup> While Ms. Lane testified that the Form 130 petitions for the March 1, 2010 and the March 1, 2011 assessments at issue were filed in 2012, the file stamps on those petitions indicate that they were actually filed on May 3, 2013. Those petitions, the dates of which the Board finds controlling, are attached to the Form 131 petitions filed with the Board and have been made a part of this record as Board Exhibit A.

Respondent did not think it was appropriate to make adjustments retroactively since the Petitioner was untimely in filing his appeals for 2010 and 2011. *Lane Testimony.*

### SUMMARY OF PETITIONER'S CONTENTIONS

17. The Petitioner's main contention is that the subject property was overvalued for the 2010 and 2011 assessments because the Respondent did not comply with the laws concerning golf course valuation.<sup>5</sup> Mr. Melton testified that he is one of three owners of Ranglesville Lake Golf, LLC, and is also its CEO. The Petitioner purchased the subject property from the Vincennes Elk Lodge on March 1, 2010 for \$850,000. The subject property consists of two different parcels, a smaller parcel and a larger parcel, the latter of which covers the majority of the golf course and some buildings. The property is a 114 acre, 18-hole golf facility with a clubhouse, a restaurant, maintenance barns, and restrooms. The golf course offers memberships and is also open to the public. The golf course has been in operation since 2010. *Melton Testimony.*
18. Mr. Melton approached the Respondent after he received the Petitioner's first tax bill in April of 2011. He felt the bill was four times higher than what other course owners told him they were paying. Mr. Melton spoke with the Respondent and asked why the assessment was so high and if she could examine it. He also asked her if she knew that there were fairly recent laws with regard to golf courses. She agreed to investigate the matter and respond accordingly. A few weeks later, Ms. Lane responded and indicated that she had found some problems and had made some adjustments. Mr. Melton did not provide any financial information to her in April 2011, nor did he recall her asking for any such information. *Melton Testimony.*
19. The Petitioner's profit and loss statement for January through December of 2010 shows a net loss. The statement was prepared by the Petitioner's accountant in October 2011 and

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<sup>5</sup> The laws the Petitioner refers to are codified in Ind. Code §6-1.1-4-42, et seq., which requires golf course valuations to be determined using an income capitalization approach.

provided to the Respondent as a result of her request for information. The Petitioner's profit and loss statement for January through December of 2011 was prepared by the Petitioner's accountant in February of 2012 and was provided to the Respondent around that same time. When Mr. Melton received the 2011 tax statement in 2012, he spoke with the Respondent because, as he contends, things had not changed. Mr. Melton contends that the law requires Ms. Lane to contact the Petitioner and ask for the requisite information, but she was not doing that so Mr. Melton thought he would just provide her with it. Mr. Melton questioned the tax bill, wanting to know why the Respondent could not change it since the law specifically states that the assessor should use the income information. The Respondent replied that she did not have any tax statements. Mr. Melton then provided Ms. Lane with additional QuickBooks data, but he was unsure of when the tax return was completed. *Melton Testimony; Pet'r Exs. 1 and 2.*

20. Mr. Melton believes he provided the Respondent with the information that was required by law. He testified that he never received an official request for information in the mail, but he did recall Ms. Lane asking for the Petitioner's tax statements to verify the profit and loss statements. Mr. Melton provided three years of financial information and tax returns when he filed with the PTABOA in 2013. He had not filed a formal appeal for 2010 and 2011 because the law specifically states that golf courses are supposed to be assessed using the income approach. He thought he gave the Respondent the income information she needed and was waiting for the assessment to be changed. The Respondent did not indicate that the Petitioner needed to file an appeal and he did not speak with anyone else about the issue until 2013. When nothing was done or changed by 2013, Mr. Melton decided to file the official appeal, which was denied for the two years in question because it was untimely. *Melton Testimony.*
21. The Petitioner's Form 1065 Partnership Tax Return for 2010 shows a net loss. Mr. Melton testified that this supports the QuickBooks numbers because they are exactly the same. The Petitioner's Form 1065 Partnership Tax Return for 2011 shows a loss as well, which again supports the QuickBooks numbers according to Mr. Melton. Mr. Melton

testified he felt that the Respondent had enough information to change the assessment based on the income data he provided. He called the State and spoke with Barry Wood, the Assessment Division Director of the Indiana Department of Local Government Finance, who explained that if an assessor only has one year of data, she has to use that one year. He testified he would like the Board to adjust the Petitioner's 2010 and 2011 assessments based on the information he provided. Mr. Melton contends that the taxes have all been paid, and if the assessments were adjusted accordingly, the Petitioner would be entitled to a credit or refund. *Melton Testimony; Pet'r Exs. 1, 2, 3 and 4.*

22. The Petitioner also called Peter A. Parsons, its CPA, to testify. Mr. Parsons prepared the Petitioner's profit and loss statements for 2010 and 2011, along with the Petitioner's tax returns for 2010, 2011 and 2012. He testified that the Petitioner's tax returns corroborate the QuickBooks information provided to the Respondent. *Parsons Testimony; Pet'r Exs. 1, 2, 3, 4 and 6.*
  
23. Mr. Parsons created a spreadsheet using the guidelines from the state on how to do a capitalization for the assessment of real estate for golf courses. The spreadsheet shows three years of income and expense information broken out for 2010, 2011 and 2012, and a three year average. The first sheet shows that each of the three years had a loss, and the second sheet shows how the Petitioner's proposed assessments were determined. Relying on the Indiana Code, Mr. Parsons multiplied the adjusted gross income by five percent, and divided that result by an overall twelve percent capitalization rate. Using this formula, Mr. Parsons calculated an assessed value of \$278,810 for 2010. For 2011, Mr. Parsons used a two year average which resulted in an assessed value of \$317,030. He testified that, in his opinion, these values are correct according to Indiana law. *Parsons Testimony; Pet'r Ex. 5.*



## DISCUSSION AND ANALYSIS

24. As explained above, the Respondent has the burden of proving that the subject property's 2010 and 2011 assessments are correct. However, instead of attempting to prove the correctness of the assessments, the Respondent chose to challenge the validity of the Petitioner's appeals. The Respondent contends the Petitioner's 2010 and 2011 appeals to the PTABOA were not timely filed. The Board agrees.
25. A taxpayer may challenge an assessed value by seeking review by a property tax assessment board of appeals. Ind. Code § 6-1.1-15-1(a). The requirements for obtaining a review filing a written notice with the county assessor within forty-five days after receiving a notice of assessment. Ind. Code § 6-1.1-15-1(c). Even when a notice of assessment is not given, a taxpayer must still initiate an appeal by filing a written notice with the county assessor by the later of May 10 of the year, or forty-five days after the tax statement is mailed. Ind. Code § 6-1.1-15-1(d). Failure to initiate the appeal within the applicable time bars a taxpayer from seeking review. *See Williams Indus. v. State Bd. of Tax Comm'rs*, 648 N.E.2d 713, 718 (Ind. Tax Ct. 1995) (stating that because the legislature had created specific appeal procedures by which to challenge assessments, a taxpayer must comply with the statutory requirements of filing the proper petitions within a timely manner); *see also Reams v. State Bd. of Tax Comm'rs*, 620 N.E.2d 758, 759-760 (Ind. Tax Ct. 1993) (stating that if a taxpayer misses the thirty day post-notice deadline for the Form 130 petition, the Form 130 and Form 131 review process is no longer available).<sup>6</sup>
26. Regrettably, the record does not reveal whether the Respondent issued notices of assessment for the two years at issue here. Nevertheless, the Board can still determine whether the Petitioner complied with the time requirements of Ind. Code § 6-1.1-15-1(d).

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<sup>6</sup> At the time *Reams* was decided, Ind. Code § 6-1.1-15-1 only allowed thirty days for a taxpayer to initiate an appeal. The statute was subsequently amended to allow forty-five days.

Again, if a taxpayer fails to timely initiate an appeal, he will be time-barred from seeking review. *Williams Industries*, 648 N.E.2d at 718; *Reams*, 620 N.E.2d at 759-760.

27. Regarding the 2010 appeals, the testimony indicates that the Petitioner's tax statements for the 2010 assessments were mailed no later than April 28, 2011. This would have given the Petitioner until June 12, 2011 to initiate the appeals. However, Ms. Lane testified that she made some adjustments to the PRC after the initial meeting with Mr. Melton on April 28, 2011 and had revised tax statements mailed out. While the mailing date of the revised tax statements is not in the record, it can be inferred from the testimony that they were mailed to the Petitioner within about a month of April 28, 2011. Given that the Petitioner's Form 130 petitions were not filed until May 3, 2013, the Petitioner failed to comply with the statutory time requirements.
28. Turning to the 2011 appeals, Mr. Melton testified that he received the tax statements for the 2011 assessments in 2012. Although a specific date is not discernible from the record, it is unnecessary for determining the Petitioner failed to timely appeal. Even if the tax statements were mailed on December 31, 2012, the Petitioner needed to file the 2011 appeals on or before February 14, 2013 to be timely. The Petitioner, however, filed its Form 130 petitions for the 2011 assessments on May 3, 2013. Thus, even when using the date most favorable to the Petitioner, it is clear that the Petitioner missed the deadline for appealing its 2011 assessments by more than two months.
29. The Board concludes that the Petitioner failed to initiate the appeal process for the 2010 and 2011 assessments within the time allowed by Ind. Code § 6-1.1-15-1(d). Consequently, the Form 130 and Form 131 review processes were not available. *Williams Industries*, 648 N.E.2d at 718; *Reams*, 620 N.E.2d at 759-760. Thus, the Board need not address the merits of the Petitioner's Form 131 petitions.

**SUMMARY OF FINAL DETERMINATION**

30. The Petitioner’s 2010 and 2011 appeals to the PTABOA were not timely filed. Consequently, the Form 130 and Form 131 review processes were unavailable to the Petitioner. Therefore, the Board finds in favor of the Respondent.

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

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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>>.