

REPRESENTATIVE FOR PETITIONERS:  
Douglas R. Samuels, *Pro se*

REPRESENTATIVES FOR RESPONDENTS:  
David J. Marusuarz, Attorney at Law  
Emily Crisler, Attorney at Law

---

**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

DOUGLAS R. SAMUELS,	)	Petition No.
	)	02-042-20-9-5-00881-21
Petitioner,	)	
	)	
v.	)	Parcel No.
	)	02-03-12-300-008.000-042
DEPARTMENT OF LOCAL	)	
GOVERNMENT FINANCE,	)	
	)	
Respondent.	)	2020 Assessment

---

Appeal from the Final Determination of the  
Department of Local Government Finance

---

**FINAL DETERMINATION**

The Indiana Board of Tax Review (the "Board") has reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### INTRODUCTION

1. The Petitioner, Douglas R. Samuels (“Samuels”), appeals the actions of the Department of Local Government Finance (“DLGF”) relating to the approval of an establishment of the Equipment Replacement Fund (the “Fund”) and imposition of the Fund’s levy for the Northeast Allen County Fire Protection District (“Fire District”). Because the Indiana Board of Tax Review (the “Board”) lacks statutory authority to review these approvals by DLGF, this matter must be dismissed.

### HEARING FACTS AND OTHER MATTERS OF RECORD

2. In June of 2020, the elected officials of Cedar Creek Township, Springfield Township, and the Town of Grabill, as participating units in the Fire District, established the Fund by resolution or ordinance. On July 14, 2020, at least ten verified taxpayers objected to the Fund by petition filed with DLGF. On August 25, 2020, DLGF held a hearing on the objections. On September 24, 2020, DLGF issued its Objection Determination approving the Fire District.<sup>1</sup> The participating units also entered into an interlocal cooperation agreement as part of the Fire District, and two versions were recorded on January 5, 2021. The first made the agreement effective on the July 1<sup>st</sup> after the date the agreement is recorded; the second made the agreement effective on the July 1<sup>st</sup> after the latter of the date the agreement is adopted or executed.<sup>2</sup>
3. On December 9, 2021, more than a year after the DLGF final determinations, Samuels filed his Form 139 with the Board, seeking a refund of the property tax assessed for the Fund for the 2021 tax year on the grounds that the interlocal agreement relating to the Fund was not recorded until January 5, 2021.

---

<sup>1</sup> DLGF also issued a Final Determination approving the levy on July 30, 2020.

<sup>2</sup> The interlocal agreements were not introduced as an exhibit in this matter. The Board takes judicial notice of the interlocal agreements as part of the record of the companion case to this matter, Dennis A. DeWitt v. Department of Local Government Finance, et.al., Pet. 02-062-20-9-5-00887-21, also heard on August 29, 2022.

4. This matter was heard on August 29, 2022, in Indianapolis with Commissioner Jonathan Elrod designated as the Administrative Law Judge (the “ALJ”).
5. Present were David J. Marusuarz, Emily L. Crisler, Douglas R. Samuels, Dennis A. Dewitt, Lori Dewitt, Stacey O’Day, and Nick Jordan. Samuels and David J. Marusuarz testified under oath.
6. The Petitioner introduced the following exhibits:

Petitioner Exhibit 1: Form 139 and attachments thereto, including the DLGF Final Determination.
7. The Respondent presented the following exhibits:

Respondent Exhibit 1: DLGF Final Determination IML 20-004.
8. The Board also recognizes as part of the record of proceedings the Forms 139, Notices of Hearing, hearing sign-in sheet, the digital recordings of the hearing, and all Board orders, motions, and responses filed with the Board.

**TAXPAYER’S CONTENTIONS**

9. Samuels contended that the Fire District was improperly established, and the DLGF did not sufficiently investigate whether the tax was properly levied for the 2020 tax year. Samuels argued that the Fire District tax should not be applied until the following year because the interlocal agreement was recorded in 2021. Accordingly, he seeks a refund of the taxes paid toward the Fire District for the 2020 tax year.

**RESPONDENT’S CONTENTIONS**

10. DLGF argued that Samuels’s Form 139 was untimely, as it was not filed within forty-five days of DLGF’s final determination. Additionally, it asserted that Samuels used the inappropriate form because review of a DLGF decision on a levy is appealed to the Tax Court under I.C. § 6-1.1-41-9. DLGF did review the fund and held a hearing, pursuant to statute. Notice of the hearing was sent to the South Bend Tribune, which was the only newspaper that requested notice—a paper two hours away and not in general circulation

in Allen County. In approving a maximum levy request, DLGF review is pursuant to I.C. § 36-8-19-6(e)(5). While the statute requires an agreement to establish a fund, it does not specify an interlocal agreement, and it has no requirement for the agreement to be recorded. DLGF admitted it has a responsibility to review a maximum levy request to confirm compliance with the statute, and will consider the procedural documents and the amount requested. From DLGF's statutory obligation, it believed it received all documents necessary to approve the fund. Also during the budget process, DLGF reviews the budgets, levies, and tax rates under I.C. § 6-1.1-17-16, and determines whether the budget is within the levy and revenue limitations. DLGF reviewed the maximum levy and issued its approval in DLGF Final Determination IML 20-004.

#### ANALYSIS

11. The Board has limited jurisdiction to hear disputes regarding property taxes. *See Whetzel v. Dep't of Local Gov't Fin.*, 761 N.E.2d 904 (Ind. Tax Ct. 2002) (holding that the Board's predecessor agency "was a creation of the Legislature and therefore only had those powers conferred by statute"); *see also Morris v. Hamilton Cty. Assessor*, 175 N.E.3d 875, (Ind. Tax Ct. 2021). The Board has authority to hear challenges to the actions of assessing officials in regard to the assessed valuation of tangible property, property tax deductions, property tax exemptions, and property tax credits. I.C. § 6-1.5-4-1. Additionally, the Board has authority to hear challenges to actions of DLGF in regard to public utility companies under I.C. § 6-1.1-8, equalization orders under I.C. § 6-1.1-14-11, personal property assessments under IC 6-1.1-16, and enterprise zones under I.C. § 6-1.1-45-11. *See* I.C. § 6-1.5-5-1.
12. In contrast, decisions by DLGF relating to the establishment of a fund or imposition of a levy are appealed to the Indiana Tax Court. I.C. § 6-1.1-41-9(c).
13. The claims stated in Samuels' petition do not fall into any of the categories under which the Board has authority to review DLGF's actions. To the extent Samuels has raised a challenge to a DLGF final determination regarding the establishment of a fund or the imposition of a levy, an appeal must be brought before the Indiana Tax Court. More

broadly, no statute grants the Board the authority to review the actions of DLGF generally, and the Board has no jurisdiction to consider whether DLGF should have inquired into the terms of the interlocal agreement. Accordingly, the Board must dismiss this appeal.<sup>3</sup>

#### CONCLUSION

14. The Board has no authority to review DLGF's actions regarding the establishment of the Fire District or the imposition of the levy.

---

<sup>3</sup> Because the Board lacks jurisdiction, the question of the timeliness of the appeal is moot.

**FINAL DETERMINATION**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now dismisses for lack of subject matter jurisdiction.

ISSUED: 11/28/2022

Jonathan R. Elmer  
Chairman, Indiana Board of Tax Review

Betsy J. Brand  
Commissioner, Indiana Board of Tax Review

Timothy Schultz  
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>>.