

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-4-00920  
**Petitioner:** Bobby Stinnett  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001-41-49-0221-0027  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter, and finds and concludes as follows:

### Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was not held, as the Petitioner claims to have not received a Form 11, Notice of Assessment. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment is \$27,200.
2. The Petitioner filed the Form 139L petition on April 29, 2004.
3. The Board issued a notice of hearing to the parties dated March 14, 2005.
4. A hearing was held on April 14, 2005, in Crown Point, Indiana before Special Master Dalene McMillen.

### Facts

5. The subject property is located at 7030 West 25<sup>th</sup> Avenue, Gary, Calumet Township, in Lake County.
6. The subject property is vacant land.
7. The Special Master did not conduct an on-site visit of the property.
8. The DLGF determined that assessed value of the subject property is \$27,000 for the vacant land.
9. The Petitioner requests a value of \$10,000

10. Bobby Stinnett, property owner, and Tommy Bennington, representing the DLGF, appeared at the hearing and were sworn as witnesses.

### **Issue**

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
  - a. The taxes on the subject property increased from \$50 to \$1,800 as a result of reassessment. *Stinnett testimony; Petitioner Exhibit 1.*
  - b. The subject lot is zoned residential, so the Petitioner is restricted from putting a commercial building on the lot. *Stinnett testimony.*
  - c. An appraisal prepared by Hugh D. Blackwell estimates the market value of the subject land to be \$4,500 as of April 11, 2005. *Id; Petitioner Exhibit 2.*
12. Summary of Respondent's contentions in support of assessment:
  - a. The subject property is valued fairly and consistently with other properties in the neighborhood. *Bennington testimony; Respondent Exhibit 3.*
  - b. The subject property record card that shows the parcel of land sold for \$8,000 on February 10, 1999. *Respondent Exhibit 1.*

### **Record**

13. The official record for this matter is made up of the following:
  - a. The Petition,
  - b. The tape recording of the hearing labeled Lake Co. 1555,
  - c. Exhibits:  
  
Petitioner Exhibit 1 – 2003 payable 2004 tax statements on the subject property,  
Petitioner Exhibit 2 – An appraisal report prepared by Hugh D. Blackwell, dated April 11, 2005,  
  
Respondent Exhibit 1 – The subject's property record card,  
Respondent Exhibit 2 – Plat maps of the subject area,  
Respondent Exhibit 3 – The Incremental / Decremental Land Pricing in Lake County Indiana and the Commercial and Industrial Neighborhood Valuation Form for neighborhood number 02593,

Board Exhibit A – Form 139L petition,  
Board Exhibit B – Notice of Hearing on Petition,  
Board Exhibit C – Hearing sign-in sheet,

- d. These Findings and Conclusions.

### Analysis

14. The most applicable cases are:
- a. A Petitioner seeking review of a determination of assessing officials has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Board of Tax Commissioners*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
  - b. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Township Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board ... through every element of the analysis”).
  - c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Insurance Company v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
15. The Petitioner did not provide sufficient evidence to support the Petitioner’s contentions. Other evidence on the record, however, serves to support a change in the assessment. This conclusion was arrived at because:
- a. The Petitioner contends the subject property is overvalued in its assessment.
  - b. The 2002 Real Property Assessment Manual (“Manual”) defines the “true tax value” of real estate as “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). The Manual further provides that for the 2002 general reassessment, a property’s assessment must reflect its market value-in-use as of January 1, 1999. MANUAL at 4.

- c. Taxpayers may offer evidence relevant to the fair market value-in-use of the subject properties to rebut their assessment and to establish the actual true tax value of the property. *MANUAL* at 5. The types of evidence that may be used for those purposes include actual construction cost, sales information regarding the subjects or comparable properties, and appraisals prepared in accordance with generally recognized appraisal practices. *Id.*
- d. The Petitioner presented an appraisal that places the value of the subject property at \$4,500, as of April 11, 2005. *Petitioner Exhibit 3*. This estimated value post-dates the valuation date of January 1, 1999, by over six years. The appraisal does not explain how that estimate of value is relevant to the statutory January 1, 1999, valuation date, and does not demonstrate the market value of the property as of January 1, 1999. Lacking such explanation, the estimate of value the Petitioner presented has no probative value in this matter. *Long v. Wayne Twp. Assessor*, 820 N.E. 2d 466, 471 (Ind. Tax Ct. 2005).
- e. The property record card submitted by the Respondent indicates that the subject property sold on February 10, 1999, for \$8,000. *Respondent Exhibit 1*. This sale took place a mere month after the January 1, 1999, valuation date.
- f. The sale of a subject property is often the most compelling evidence of its market value. In this case, the sale took place very close to the January 1, 1999 valuation date. The sale serves as the *only* probative evidence on the record as to the actual market value of the subject property.
- g. As a result, a case has been made, through evidence submitted by the Respondent, for lowering the assessment of the subject property to \$8,000. The Board hereby lowers the assessment accordingly.

### **Conclusion**

- 16. The evidence on the record shows that the subject property is overvalued in its assessment. The Board finds in favor of the Petitioner.

## Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to \$8,000.

ISSUED: \_\_\_\_\_

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Commissioner,  
Indiana Board of Tax Review

## IMPORTANT NOTICE

### - APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10 (A), and Indiana Code §§ 4-21.5-5-7 (b)(4), 6-1.1-15-5 (b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at [http://www.in.gov/judiciary/rules/trial\\_proc/inde.html](http://www.in.gov/judiciary/rules/trial_proc/inde.html). The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>