

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-5-01641  
**Petitioner:** Gwendolyn Hester  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001-25-44-0129-0044  
**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 Department of Local Government Finance (the "DLGF") determined that the Petitioner's property tax assessment for the subject property was \$27,300 and notified the Petitioner.
2. The Petitioner filed a Form 139L on August 9, 2004.
3. The Board issued a notice of hearing to the parties dated April 27, 2005.
4. Special Master Peter Salveson held a hearing in Crown Point on June 28, 2005.

### Facts

5. The subject property is located at 441 Pierce Street in Gary.
6. The subject property is a 901 square foot single-family home on a lot measuring 32 feet by 125 feet.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed Value of subject property as determined by the DLGF:  
Land \$ 3,900                      Improvements \$ 23,400                      Total \$27,300.
9. Assessed Value requested by Petitioner:  
Land \$ 1,000                      Improvements \$ 6,900                      Total \$7,900.
10. Persons present and sworn in at hearing:  
For Petitioner – Etta R. Brantley, property owner's sister,

For Respondent – Diane Spenos, assessor/auditor.

### **Issues**

11. Summary of Petitioner’s contentions in support of an alleged error in the assessment:
  - a) The assessment of the subject property is higher than the value established by an appraisal completed for probate purposes. The Petitioner presented an estimate of value prepared by a licensed appraiser that estimates the 1998 value of the subject property at \$9,500. The Petitioner also presented a copy of a Schedule A from the Petitioner’s federal tax return showing that the \$9,500 was reported as the subject property value for federal tax purposes. *Brantley testimony; Petitioner Exhibit 2, 3.*
  - b) The subject property does not have a working fireplace. *Brantley testimony.*
12. Summary of Respondent’s contentions in support of the assessment:
  - a) The subject property is assessed at a similar per square foot value as the comparable sales presented by the Respondent. The two most comparables have a sale price of \$20.25 and \$40.49 per square foot of finished living area while the subject property is assessed at a value of \$30.30 per square foot of finished living area. *Spenos testimony; Respondent Exhibit 3, 4.*
  - b) The Respondent contends that the letter presented by the Petitioner that estimates a value of \$9,500 for the subject property is not an appraisal. *Spenos testimony.*

### **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 County 1305,
  - c) Exhibits:
    - Petitioner Exhibit 1 – A copy of the Form 139L,
    - Petitioner Exhibit 2 – A copy of an estimate of value,
    - Petitioner Exhibit 3 – A copy of Schedule A from a federal tax return,
    - Petitioner Exhibit 4 – A copy of a reconciliation tax bill,
    - Petitioner Exhibit 5 – A copy of the 2001 payable 2002 tax bill,
    - Petitioner Exhibit 6 – A copy of the 2000 payable 2001 tax bill,
    - Respondent Exhibit 1 – The subject property record card,
    - Respondent Exhibit 2 – A photograph of the subject property,
    - Respondent Exhibit 3 – A list of the top 20 comparable sales,

Respondent Exhibit 4 – The property record cards and photographs of the most comparable properties,  
Board Exhibit A – Form 139L Petition,  
Board Exhibit B – Notice of Hearing,  
Board Exhibit C – Sign-In Sheet,

- d) These Findings and Conclusions.

### Analysis

14. The most applicable laws are:

- a) A Petitioner seeking review of a determination of an assessing official 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 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).
- 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 Twp. 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 Ins. Co. 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. This conclusion was arrived at because:

- a) Taxpayers may offer evidence relevant to the fair market value-in-use of the property to rebut their assessment and to establish the actual true tax value of the property, using evidence of market value including, but not limited to, actual construction cost, sales information regarding the subject or comparable properties, and appraisals prepared in accordance with generally recognized appraisal practices. 2002 REAL PROPERTY ASSESSMENT MANUAL at 5 (incorporated by reference at 50 IAC 2.3-1-2).
- b) The Petitioner relied on an estimate of value of \$9,500 as evidence of the subject property's market value. *Petitioner Exhibit 2*. Although the estimate of value presented represents the appraiser's opinion of value, the estimate of

value does not contain the basis for this opinion. As such, it is not probative of the market value of the subject property. *See Inland Steel Co. v. State Bd. of Tax Comm'rs*, 739 N.E.2d 201, 220 (Ind. Tax Ct. 2000)(holding that an appraiser's opinion lacked probative value where the appraiser failed to explain what a producer price index was, how it was calculated or that its use as a deflator was a generally accepted appraisal technique).

- c) The Petitioner also relied on the federal tax return schedule as evidence of the subject property's market value. *Petitioner Exhibit 3*. The basis for the value reflected on the federal tax return schedule is the estimate of value offered as *Petitioner Exhibit 2*. As stated above, the estimate of value contains an unexplained opinion of value. Without some explanation or basis for the value reported on the federal tax return schedule, this evidence has no probative value.
- d) The Petitioner has not presented probative evidence to show that the current assessment is incorrect and what the correct assessment should be. *Meridian Towers*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *Clark*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).

### **Conclusion**

- 16. The Petitioner failed to make a prima facie case. The Board finds in favor of the Respondent.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should not be changed.

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

\_\_\_\_\_  
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/index.html](http://www.in.gov/judiciary/rules/trial_proc/index.html)>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>.