

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition:** 45-016-02-1-5-00147  
**Petitioners:** Ronald Jay and Kathryn Seeley  
**Respondent:** Department of Local Government Finance  
**Parcel:** 006-27-18-0042-0006  
**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 held and the Department of Local Government Finance (the DLGF) determined that Petitioners' property tax assessment for the subject property is \$155,700 and notified Petitioners on March 26, 2004.
2. Petitioners filed a Form 139L on April 28, 2004.
3. The Board issued a notice of hearing to the parties dated February 21, 2005.
4. Special Master Rick Barter held a hearing on March 24, 2005, in Crown Point, Indiana.

### Facts

5. The subject property is located at 250 South Pennsylvania Street, Hobart, in Hobart Township.
6. The subject property is a single family residence.
7. The Special Master did not conduct an on-site inspection of the property.
8. The DLGF determined that the assessed value of the subject property is \$20,800 for the land and \$134,900 for the improvements for a total assessed value of \$155,700.
9. The Petitioners requested an assessed value of \$20,800 for the land and \$96,500 for the improvements for a total assessed value of \$117,300.

10. Kathryn Seeley, one of the owners of the property, and Tommy Bennington, representing the DLGF, appeared at the hearing and were sworn as witnesses.

### **Issue**

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
- a) Petitioners presented an appraisal combining the property under appeal and an adjacent vacant lot. This appraisal was prepared by Mr. Ron Schwuchow, an Indiana licensed appraiser, and indicates a combined total value of \$135,000 for both parcels as of December 1, 1999. *Petitioners Exhibit 9*. Petitioners are not contesting the assessed value of \$14,700 for the adjacent vacant lot. *Seeley testimony; Respondent Exhibit 2b*.
  - b) The property is located in an older neighborhood. There is heavy traffic flow and railroad tracks are located across the street. The storm sewer overflows during heavy rains. *Seeley testimony; Petitioners Exhibit 4*.
  - c) Petitioners constructed an addition to the original structure. As a result, the exterior appearance is not uniform. There are also flaws in the layout of the home. *Seeley testimony; Petitioners Exhibit 5*.
  - d) Larger homes in the neighborhood are assessed for less than Petitioners' property. *Seeley testimony; Petitioners Exhibits 6 and 7*.
12. Summary of Respondent's contentions in support of the assessment:
- a) Respondent presented a list of twenty comparable properties. *Respondent Exhibit 6*. The 2002 assessed value of the subject is appropriate when considered with sales of comparable properties. The values per square foot are similar. *Bennington testimony*.
  - b) Respondent was not able to locate comparable properties in Petitioners' neighborhood, but the comparable properties are all located in Hobart. Some of the comparable properties lack amenities present in Petitioners' home, such as basements, pools, and garages. *Id.*

### **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. 1230,
  - c) Petitioners Exhibit 1 - Form 139L,  
Petitioners Exhibit 2 - Summary of contentions,

Petitioners Exhibit 3 - Statement of assessments of subject and adjacent parcel,  
Petitioners Exhibit 4 - Statement of conditions in neighborhood and assessments of comparable properties in the neighborhood, as well as a summary of conditions within the subject,  
Petitioners Exhibit 5 - Discussion of flaws within the subject impacting value,  
Petitioners Exhibit 6 - Discussion of comparable homes in neighborhood and computer data sheets of each,  
Petitioners Exhibit 7 - Comparison of the most comparable home in the neighborhood with data sheets and photographs,  
Petitioners Exhibit 8 - Property record cards of subject and comparable properties,  
Petitioners Exhibit 9 - Appraisal of the subject dated December 1, 1999,

Respondent Exhibit 1 - Form 139L,  
Respondent Exhibit 2a - Subject property record card,  
Respondent Exhibit 2b - Property record card of adjacent lot,  
Respondent Exhibit 3 - Photographs of subject and adjacent lot,  
Respondent Exhibit 4 - Map of the subject area,  
Respondent Exhibits 5a - c - Property record card and photograph of each of top three comparable sales,  
Respondent Exhibit 6 - List of 20 comparable sales,

Board Exhibit A - Form 139L,  
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. Petitioners provided sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) Petitioners introduced an appraisal report from a licensed appraiser indicating an estimated value of \$135,000 for the subject property and an adjacent vacant parcel as of December 1, 1999. *Petitioners Exhibit 9*. The undisputed value of the adjoining vacant parcel is \$14,700. *Respondent Exhibit 2b*. The Petitioner did not appeal the adjoining parcel.
  - b) To determine the land value for each neighborhood, a township assessor selects representative sales disclosure statements or written estimations of a property value. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, Chap.2, pg. 7 (the GUIDELINES), According to the GUIDELINES, “representative disclosure statements ... refer to a transaction, or written estimations of value must refer to an estimation of value, that is dated no more than eighteen (18) months prior or subsequent to January 1, 1999.” The appraisal date is within twelve months of January 1, 1999, the assessment valuation date. Therefore, the appraisal is probative evidence of value for the 2002 reassessment. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).<sup>1</sup>
  - c) Petitioners' evidence is sufficient to make a prima facie case that the 2002 assessed value of the subject property is too high. Further, Petitioners' evidence establishes a value for the subject property of \$120,300.<sup>2</sup> 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. The Respondent did not dispute the contents of the appraisal.
  - d) In support of the current assessed value, the Respondent presented evidence of twenty sales of purported comparable properties. However, Respondent testified that the DLGF had difficulty identifying comparable sales in the subject neighborhood and that the sales used were from different neighborhoods. *Bennington testimony*. Respondent failed to show the manner in which these neighborhoods are comparable. Merely alleging that properties are comparable is insufficient to establish the purported comparable properties are comparable to the property under appeal. *Blackbird Farms Apts., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711 (Ind. Tax Ct.

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<sup>1</sup> Petitioners raised additional issues concerning specific features of the home and neighborhood. The value established by the appraisal, however, would have taken those issues into account. Because the Board has accepted the appraisal opinion of value as probative, it is unnecessary to separately address those other issues.

<sup>2</sup> The \$135,000 appraised value less the \$14,700 for the adjoining vacant parcel equals a value of \$120,300 for the subject property.

2002). Respondent's unsubstantiated conclusions do not constitute probative evidence. *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E.2d 1113 (Ind. Tax Ct. 1998). Further, the Respondent's "comparables" show sales price per square foot ranging from \$35.53 to \$104.47. As such, this is a meaningless criteria and the Respondent's testimony that the subject property is within this range is not probative. Therefore, the Board determines that the Respondent has failed to rebut Petitioners' prima facie case.

### **Conclusion**

16. Petitioners made a prima facie case. Respondent did not rebut Petitioners' evidence. The Board finds in favor of Petitioners and holds that the value of the subject property is \$120,300.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the total assessed value of the subject property should now be changed to Land \$20,800; improvement \$99,500; total \$120,300.

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>>.**