

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition:** 45-032-02-1-5-00426  
**Petitioner:** Anita J. Griffin Trust  
**Respondent:** Department of Local Government Finance  
**Parcel:** 009-22-12-0052-0017  
**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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held in January 2004. The Department of Local Government Finance (the DLGF) determined that the tax assessment for the subject property is \$157,700 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 22, 2004.
3. The Board issued a notice of hearing to the parties on October 27, 2004.
4. Special Master Peter Salveson held the hearing in Crown Point on December 1, 2004.

### Facts

5. The subject property is located at 8683 Howard Street in St. John.
6. The subject property is a single family-home on 0.704 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. The assessed value of the subject property as determined by the DLGF is:  
Land \$52,800            Improvements \$104,900            Total \$157,700.
9. The assessed value requested by the Petitioner during hearing is:  
Land \$36,610            Improvements \$104,900            Total \$141,510.

10. Persons sworn as witnesses at the hearing:  
Joseph R. Griffin, spouse of trustee,<sup>1</sup>  
Joseph Lukomski, Jr., assessor/auditor.

### **Issue**

12. Summary of Petitioner's contentions in support of alleged error in assessment:
  - a. The land value of subject property is significantly higher than the land value on Magnolia Street. *Petitioner Exhibit 5, 6, 7.*
  - b. Magnolia Street and Howard Street are both part of the Lantern Woods sub-division. The streets were developed about the same time and the lots are of similar size. *Griffin Testimony; Petitioner Exhibit 9.*
  - c. The subject property on Howard Street should have the same front foot rate for land as properties on Magnolia Street. *Griffin Testimony.*
13. Summary of Respondent's contentions in support of assessment:
  - a. The land values are consistent with the neighborhood factor per the Land Order used to determine the assessment of the subject property. Howard Street is in neighborhood 02225 and Magnolia Street is in neighborhood 00924. These neighborhoods have different base rates for land that use different cost per front foot. *Lucomski Testimony.*
  - b. Comparable sales for improved residential properties support the current valuation of the improved parcel. *Lucomski Testimony; Respondent Exhibit 4.*

### **Record**

14. 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. 897,

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<sup>1</sup> Petitioner failed to appear at the hearing. Neither the trustee herself, nor a properly authorized tax representative or counsel appeared. Apparently aware of the need for some type of authority, the trustee submitted a written authorization for her husband, Joseph R. Griffin, to represent her at "any hearing relative to the property tax assessment of my property...." *Board Exhibit A.* The record does not indicate that Mr. Griffin has any interest in this property whatsoever. While there is no problem with his appearing as a witness and offering testimony in support of the Petitioner's claims, the applicable statutes, regulations and procedural rules do not authorize Mr. Griffin to represent the trust in this proceeding. The Respondent, however, did not dispute Mr. Griffin's status at the hearing or object to the evidence he offered. Therefore, the Board will make no determination regarding that status and will make its determination based upon the merits of the evidence that is in the record, regardless of any procedural defect caused by the Petitioner's failure to appear at the hearing.

- c. Petitioner Exhibit 1: Form 139L,  
 Petitioner Exhibit 2: Property record card,  
 Petitioner Exhibit 3: Notice of Final Assessment,  
 Petitioner Exhibit 4: Notice of Assessment – Form 11/Lake County,  
 Petitioner Exhibit 5: Map,  
 Petitioner Exhibit 6: Data Table,  
 Petitioner Exhibit 7: Individual Data Sheets for Magnolia Street – Assessed Values,  
 Petitioner Exhibit 8: Individual Data Sheets for Howard Street – Assessed Values,  
 Petitioner Exhibit 9: Drawing of Lantern Woods,  
 Petitioner Exhibit 10: Drawing of Lantern Woods – Unit 6 (Magnolia),  
 Petitioner Exhibit 11: Survey of 8683 Howard,  
 Petitioner Exhibit 12: Photographs of properties on Magnolia and Howard,  
 Respondent Exhibit 1: Form 139L,  
 Respondent Exhibit 2: Subject property record card,  
 Respondent Exhibit 3: Subject photograph,  
 Respondent Exhibit 4: Comparable sheet,  
 Respondent Exhibit 5: Comparable property record card and photograph,  
 Board Exhibit A: Form 139L,  
 Board Exhibit B: Notice of Hearing,  
 Board Exhibit C: Sign in Sheet,
- d. These Findings and Conclusions.

### Analysis

- 15. The most applicable governing cases 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 at 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.

16. The Petitioner provided insufficient evidence to support its contention for a reduction in assessed value. This conclusion was arrived at because:
- a. While it is possible to establish that an assessment is wrong and must be changed by comparing one assessment to another, the party seeking that assessment change must prove and explain how the properties compare. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005)(stating "the Longs were responsible for explaining to the Indiana Board the characteristics of their own property, how those characteristics compared to those of the purportedly comparable properties, and how any differences affected the relevant market value-in-use of the properties.") Otherwise, the evidence has no probative value. *Id.*; *Blackbird Farms Apts. v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002).
  - b. The evidence proved that the values for improved residential lots on Howard and Magnolia are different. Even though the land values on Howard and Magnolia are different, the Petitioner did not provide evidence that the assessment for the subject property is incorrect.
  - c. Although Howard and Magnolia are in the same subdivision, they are in different designated neighborhoods for the 2002 reassessment. The subject property is in neighborhood 02225, as are the other properties on Howard. The land values for all those properties appear to be comparable and uniform, even though the Petitioner's assessed value is slightly less than the others on Howard because of the size and shape of that lot. There is no evidence that those values are not consistent with the base rates that were established for that neighborhood.
  - d. The Howard and Magnolia properties are both in the same subdivision. The lots on both streets are approximately the same size and shape. By establishing these facts, the Petitioner started down the correct path. The Petitioner failed, however, to offer any probative evidence or explanation regarding the fact that the Howard and Magnolia locations are in different neighborhoods. That failure leaves the assessed values on Magnolia with no probative value in determining the proper assessed value for the subject property on Howard.
  - e. Furthermore, the Petitioner did not show why land values on Howard should be lowered to match land values of parcels on Magnolia. If the neighborhoods were comparable, the evidence presented could be interpreted to establish that the land value for parcels on Magnolia should be increased to match those on Howard.
  - f. The land value of the subject property is consistent with the land values for similar parcels in the same neighborhood. The Petitioner failed to offer probative evidence that the market value of all those properties is anything less than their current assessed values.
  - g. The testimony that land values for property on Howard and on Magnolia should be the same is only a conclusory opinion. There is no probative evidence to support the

statement. Therefore, that testimony is not probative evidence for this case. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003); *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

- h. Where the Petitioner has not supported the claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified*, 799 N.E.2d at 1222.

### Conclusion

17. The Petitioner did not make a prima facie case. The Board finds in favor of the Respondent.

### Final Determination

In accordance with the above findings and conclusions, the assessment should not be changed.

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

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Commissioner,  
Indiana Board of Tax Review

- 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>.