

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-00677  
**Petitioner:** Anthony Abildua  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 007-26-34-0245-0001  
**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. The Department of Local Government Finance ("DLGF") determined that the Petitioner's property tax assessment for the subject property was \$209,500 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 28, 2004.
3. The Board issued a notice of hearing to the parties on September 9, 2004.
4. Special Master Peter Salvesson held the hearing on October 12, 2004, in Crown Point.

### Facts

5. The subject property is located at 2104 Stanton Ave., Whiting, in North Township.
6. The subject property is a three-unit residence on 0.107 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed Value of the subject property as determined by the DLGF:  
Land \$21,500                      Improvements \$188,000
9. Assessed Value requested verbally by the Petitioner during hearing:  
Land \$21,500                      Improvements \$78,000

10. Persons sworn as witnesses at the hearing:  
For Petitioner — Anthony J. and Margaret Abildua, Owners,  
For Respondent — Larry Vales, Appraiser, Cole-Layer-Trumble

### **Issue**

11. Summary of Petitioner's contentions in support of alleged error in assessment:
- a) The Petitioner contends that the appraisal submitted indicates that the subject property is assessed higher than market value. *Abildua Testimony; Petitioner Exhibit A.*
  - b) The Petitioner contends that the current assessment is too high when compared to comparable assessments presented by the petitioner. *Abildua Testimony; Petitioner Exhibit B.*
  - c) The Petitioner contends that the current assessment has an incorrect number of rooms and that the correct count is 15 rooms of which 5 are bedrooms. *Abildua Testimony.*
12. Summary of Respondent's testimony:
- a) The Respondent does not contest the appraisal presented by the Petitioner. *Vales Testimony; Petitioner Exhibit B.*
  - b) The Respondent stated that the comparable sales presented by the Respondent supports a value of \$145,000 and recommends that the assessment of the subject property be changed to \$145,000. *Vales Testimony.*

### **Record**

13. The official record for this matter is made up of the following:
- a) The Petition and all subsequent pre-hearing submissions by either party,
  - b) The tape recording of the hearing labeled Lake Co. 513,
  - c) Exhibits:
    - Petitioner Exhibit A: Appraisal,
    - Petitioner Exhibit B: Copies of comparable assessments,
    - Respondent Exhibit 1: Form 139L Petition,
    - Respondent Exhibit 2: Subject property record card,
    - Respondent Exhibit 3: Subject photo,
    - Respondent Exhibit 4: Comparable property record cards and photos,
    - 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 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.
15. The Petitioner provided sufficient evidence and testimony to support his contentions. The Respondent did not rebut the Petitioner's testimony and evidence. This conclusion was arrived at because:
- a) The Petitioner submitted an appraisal that established the subject property is being assessed higher than market value. *Petitioner Exhibit A*.
  - b) The Respondent did not contest the appraisal submitted by the Petitioner. In fact, the Respondent's comparable sales supported the value of the property indicated by the appraisal. *Respondent Exhibit 4; Petitioner Exhibit A*.
  - c) The Petitioner and Respondent agreed that the total assessment of the subject property should be changed to \$145,000.
  - d) The number of rooms on the record card should be corrected though this will not have an effect on the valuation of the subject property.

**Conclusion**

- 16. The Petitioner established a prima facie case. The Respondent agreed that the value of the subject property should be changed. The Board finds in favor of the Petitioner. The value of the subject property should be changed to \$145,000.

**Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should 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.**