

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-032-02-1-5-00431  
**Petitioner:** Barbara A. Gates  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 009-09-11-0114-0005  
**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 on December 1, 2003 in Lake County, Indiana. The Department of Local Government Finance ("DLGF") determined that the property tax assessment for the subject property was \$116,400 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 dated September 3, 2004.
4. A hearing was held on October 7, 2004, in Crown Point, Indiana before Special Master Peter Salvesson.

### Facts

5. The subject property is located at: 8821 Lee Street, Crown Point, St. John Township
6. The subject property consists of a single-family home situated on 0.429 acres of land.
7. The Special Master did not conduct an on-site visit of the property
  - a) Assessed Value of subject property as determined by the DLGF:  
Land \$41,600                      Improvements \$74,800.
  - b) Assessed Value requested by Petitioner:  
Land \$13,268                      Improvements \$74,800.
8. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

9. Persons sworn in at hearing:

For Petitioner: Barbara A. Gates, Owner

For Respondent: Tommy P. Bennington, DLGF  
James S. Hemming, DLGF  
Larry Vales, Appraiser

**Issues**

10. Summary of Petitioner’s contentions in support of an alleged error in the assessment:

- a) The assessed land value for the subject property is too high. The land value of the subject property was calculated on a front foot basis while land in the neighborhood was valued on an acreage basis. *Gates testimony and argument; Petitioner’s Exhibit 3.*
- b) Improved residential lots in the subject property’s neighborhood that are larger than the subject property have lower assessed land values. *Id.*

11. Summary of Respondent’s contentions in support of the assessment:

- a) The subject land was assessed using the front foot method, which is the same method used to assess other properties of similar size. Only larger properties in a different area were assessed using the acreage method. *Vales testimony*
- b) Sales of comparable properties indicate that the assessment is fair and equitable. The Petitioner submitted no market or sales data to support her position. *Vales testimony and argument; Respondent’s Exhibit 4.*

**Record**

12. The official record for this matter is made up of the following:

- a) The Petition.
- b) The tape recording of the hearing labeled #274.
- c) Exhibits:

Petitioner Exhibit 1:	Form 139L Petition
Petitioner Exhibit 2:	Grounds for Appeal
Petitioner Exhibit 3:	Comparison of Assessment Rates
Petitioner Exhibit 4:	Form 11 – dated November 4, 2003
Petitioner Exhibit 5:	Notice of Final Assessment

Respondent Exhibit 1:	Form 139L Petition
Respondent Exhibit 2:	Subject Property Record Card
Respondent Exhibit 3:	Subject Property Photo
Respondent Exhibit 4:	Comparable Sales Sheet
Respondent Exhibit 5:	Comparable Property Record Cards & Photos
Respondent Exhibit 6:	Tax Map
Board Exhibit A:	Form 139 L Petition
Board Exhibit B:	Notice of Hearing
Board Exhibit C:	Sign-In Sheet

d) These Findings and Conclusions.

### Analysis

13. 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.
14. The Petitioner did not provide sufficient evidence to support her contentions. This conclusion was arrived at because:
- a) The Petitioner contends that land was not assessed uniformly and equally throughout the subject neighborhood, because the Respondent valued some parcels on a front foot basis, while it valued others on an acreage basis. According to the Petitioner, that variation in assessment methods used by the Respondent led to significant disparities in assessed land values throughout the neighborhood.
  - b) The Petitioner submitted property record cards for the subject property and for five (5) other parcels from the same neighborhood. Of all of the parcels identified by the

Petitioner, only one (1) was assessed on an acreage basis. That parcel consists of one (1) acre and was assessed for \$31,000. *Petitioner's Exhibit 3*. The other parcels, including the subject parcel, all consist of less than one (1) acre and were assessed on a front foot basis for amounts ranging from \$39,300 to \$63,000. *Id.*

- c) The Petitioner's evidence arguably shows some lack of uniformity in assessment. What it does not show is which of the two methods of assessment most accurately reflects the market value of the parcels in the neighborhood. The Petitioner did not submit any market data to assist in such a determination. The Petitioner also failed to point to anything within the neighborhood valuation form or the Real Property Assessment Guidelines for 2002 – Version A, requiring that her lot be assessed on an acreage basis. If anything, the Petitioner's evidence supports a conclusion that it is the one parcel assessed on an acreage basis, not the five parcels assessed on a front foot basis, that represents a departure from uniformity.
- d) Based on the foregoing, the Petitioner failed to establish a prima facie case of error in the assessment of the subject property.

### **Conclusion**

- 15. The Petitioner failed to establish 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: \_\_\_\_\_

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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/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>.