

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-5-00452  
**Petitioner:** Cassandra L. Brown  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001-25-41-0214-0034  
**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 in February 2004 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$41,300 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 15, 2004.
3. The Board issued a notice of hearing to the parties dated July 28, 2004.
4. Special Master S. Sue Mayes held the hearing in Crown Point on September 14, 2004.

### Facts

5. The subject property is located at 4605 Massachusetts Street, Gary, in Calumet Township.
6. The subject property is a single-family ranch dwelling located on a 50 by 126 foot parcel.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of the subject property as determined by the DLGF:  
Land \$5,100                      Improvements \$36,200                      Total \$41,300.
9. Assessed Value requested by Petitioner:  
Land \$5,100                      Improvements \$24,900                      Total \$30,000.

10. Persons sworn as witnesses at the hearing:  
For Petitioner — Cassandra L. Brown, Owner  
For Respondent — Cathi Gould, Staff Appraiser, Cole-Layer-Trumble

**Issue**

11. Summary of Petitioner’s contentions in support of an alleged error in the assessment:
- a. The Petitioner is contesting the value placed on the subject property due to the dilapidated condition of properties in the area. The Petitioner did not have photographs, but brought a video camera with which she had recorded the area surrounding her home. Rather than submitting the video as evidence, the Petitioner accepted copies of two photographs of the neighboring homes from the Respondent’s file. *Petitioner Exhibit 1; Brown testimony.*
  - b. In February of 2004, the Petitioner received a market value report from McColly Realtors, indicating a value of no more than \$40,000. The Petitioner testified that she believed she had left the report at the previous informal hearing with the DLGF. *Brown testimony.*
  - c. The Petitioner introduced a copy of a “Notice of Motion and Opportunity to Object” filed with the United States Bankruptcy Court (Northern District of Indiana, Hammond Division). In this document, the mortgage company asserted that there is little or no equity in the subject real estate for the benefit of creditors. *Petitioner Exhibit 2; Brown testimony.*
  - d. The Petitioner based her asking price of \$51,500 on the balance she owed on the home. *Brown testimony.*
12. Summary of Respondent’s contentions in support of the assessment:
- a. Market data from the neighborhood indicated sales of comparable properties for \$43,000, \$50,000 and \$33,000. The Petitioner’s assessed value is at \$41,000, consistent with the values of other properties in the neighborhood. *Respondent Exhibit 4; Gould testimony.*
  - b. The Petitioner’s property is assessed at \$40 per square foot. Comparable properties are assessed at \$39, \$42, and \$32 per square foot, indicating the Petitioner’s assessment is consistent with the assessments of comparable properties in the neighborhood. *Respondent Exhibit 4; Gould testimony.*
  - c. On the Form 139L, the amount of property insurance listed is \$86,000. The selling price listed is \$51,000, which is \$10,000 more than the current assessed value. The Respondent contended that \$41,300 is fair and reasonable for the market value of the subject. *Respondent Exhibit 1; Gould testimony.*

- d. The Respondent testified there was no market value report in the Respondent's file. Nevertheless, the purported value of \$40,000 supports the current assessment. The difference between the February 2004 market value opinion of the realtor and the assessment is \$1,000. Further, the valuation date is 1999 and the market could have declined during that period. *Gould 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 Co. 436.
  - c. Exhibits:
    - Petitioner Exhibit 1: Photographs of homes north and south of the subject.
    - Petitioner Exhibit 2: Bankruptcy Notice of Motion and Opportunity to Object.
    - Petitioner Exhibit 3: Home Loan Statement dated August 18, 2004.
    - Respondent Exhibit 1: Form 139L.
    - Respondent Exhibit 2: Subject property record card.
    - Respondent Exhibit 3: Photograph of the subject property.
    - Respondent Exhibit 4: Comparable sales sheet with property record cards and photographs.
    - 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. The Petitioner did not provide sufficient evidence to support her contentions. This conclusion was arrived at because:
- a. The Petitioner contended the correct value should be \$30,000 due to the dilapidated properties in the area, but she failed to provide probative evidence to substantiate her opinion that the quality of the neighborhood had lowered the market value of her house. Consequently, this claim did not establish a basis for lowering the assessment. *See Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003) (stating that conclusory statements are not probative evidence); *Whitley Prods. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
  - b. The current assessed value is \$41,300. The Petitioner testified that she had received a market value report from a realtor indicating a value of no more than \$40,000. Such conclusory statements do not constitute probative evidence. *Id.* Furthermore, the Petitioner failed to explain how a market value report indicating a value of \$40,000 as of February 2004 supports the total assessment sought by the Petitioner of \$30,000 for 2002. *Indianapolis Racquet Club*, 802 N.E.2d at 1022. *See also Long v. Wayne Twp. Assessor*, No. 49T10-0404-TA-20, slip op. at 8 (Ind. Tax Ct. January 28, 2005) (holding that Petitioner must provide some explanation that demonstrates how the evidence demonstrates the value of the property as of January 1, 1999). Without such explanation, the testimony has no probative value. *Id.*
  - c. In further support of her argument, the Petitioner presented a video and photographs of two neighboring homes. Again, however, the Petitioner failed to establish the necessary link between the condition of these two homes and the claimed reduced value of the Petitioner's property. *Indianapolis Racquet Club*, 802 N.E.2d at 1022.
  - d. Similarly, the Petitioner did not explain the manner in which minimal equity in the property or a home loan payment record supports the proposed market value of \$30,000. *Id.*
  - e. The Petitioner failed to make a prima facie case for any change regarding her assessment.
  - f. 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**

- 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.**