

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-013-02-1-5-00041  
**Petitioner:** Charles & Judy Anderson  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 005405200700020  
**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. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$155,300 and notified Petitioner on March 25, 2004.
2. Petitioner filed a Form 139L on April 5, 2004.
3. The Board issued a notice of hearing to the parties dated June 24, 2004.
4. A hearing was held on August 12, 2004, in Crown Point, Indiana before Special Master Kathy J. Clark.

### Facts

5. The subject property is located at: 12602 W. 105<sup>th</sup> Avenue, St. John in Hanover Township.
6. The subject property is a bi-level, single-family dwelling located on a lot 90 feet by 140 feet.
7. The Special Master did not conduct an on-site visit of the property
8. Assessed Value of subject property as determined by the DLGF:  
Land: \$ 27,100 Improvements: \$ 128,200 Total: \$ 155,300.
9. Assessed Value requested by Petitioner: \$ 130,700.

10. Persons present and sworn in at hearing:

For Petitioner: Charles Anderson, Owner  
For Respondent: Cathi Gould, Senior Appraiser, Cole-Layer-Trumble

**Issues**

11. Summary of Petitioner’s contentions in support of alleged error in assessment:
- a. Petitioner contends that the dwelling is assessed as a two-story home on slab when it is actually a bi-level with an unfinished basement. *Anderson testimony.*
  - b. The Hanover Township Assessor assessed their dwelling as a one story with unfinished basement resulting in an improvement value of \$103,600. *Anderson testimony.* The Petitioner contends that this is the correct value of their dwelling. *Id.; Petitioner Exhibit 3.*
12. Summary of Respondent’s contentions in support of a correction to the assessment:
- a. The Respondent contends that for the purposes of reassessment all bi-levels are priced as two story structures on slab. *Gould testimony.* This process was used on all bi-levels in Lake County per the 2002 REAL PROPERTY ASSESSMENT GUIDELINES.
  - b. After reviewing the photographs supplied by Petitioner and hearing their testimony, Respondent agreed that the first floor or lower level interior finish should be removed from the subject’s assessment value. *Gould testimony; Petitioner Exhibit 4.*
  - c. Respondent furnished a draft property record with a corrected improvement value of \$104,700. *Respondent Exhibit 4.*

**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. Tape #112.
  - c. Exhibits:
    - Petitioner Exhibit 1: Form 11 (not supplied at hearing but listed on cover sheet).
    - Petitioner Exhibit 2: Form 139L (not supplied at hearing but listed on cover sheet).
    - Petitioner Exhibit 3: Recalculated property record card from Hanover Township Assessor.
    - Petitioner Exhibit 4: Photographs of unfinished lower level of subject property.
  
    - Respondent Exhibit 1: Form 139L.
    - Respondent Exhibit 2: Subject property record card and photograph.
    - Respondent Exhibit 3: Comparable sales analysis with record cards and photographs.
    - Respondent Exhibit 4: Draft of corrected property record card.
  - 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 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. Petitioner provided photographs and testimony to show that the lower level of their property is unfinished and therefore incorrectly assessed. *Anderson testimony*. Petitioner presented a calculation done by the Hanover Township Assessor that valued the improvement at \$103,600. *Petitioner Exhibit 3*.
16. Respondent conceded this issue and agreed that the lower level is unfinished. *Gould testimony*. Respondent calculated the adjustment to unfinished lower level to be \$104,700. *Gould testimony; Respondent Exhibit 4*. Petitioner expressed agreement with this value. The assessed value should be changed per the parties' agreement to reflect an assessed value of \$104,700 for the improvement and \$27,100 for the land. *Respondent Exhibit 4*.

## Conclusion

17. The Respondent and Petitioner agreed that the lower level of the dwelling was unfinished. The Board determines that the subject assessment should be changed to reflect the parties' agreement.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to \$131,800, consistent with the parties' agreement.

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.**