

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition #s:** 48-027-03-1-5-00039 and 48-027-03-1-5-00040  
**Petitioners:** Charles and Margie DeHart  
**Respondent:** Pipe Creek Township Assessor (Madison County)  
**Parcel #s:** 26-256-21 and 26-256-24  
**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 Petitioners initiated an assessment appeal with the Madison County Property Tax Assessment Board of Appeals (PTABOA) by written document dated March 1, 2004.
2. The Petitioners received notice of the decision of the PTABOA on August 12, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on August 31, 2004. Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated November 24, 2004.
5. The Board held an administrative hearing on January 13, 2005, before the duly appointed Administrative Law Judge Debra Eads.
6. Persons present and sworn in at hearing:
  - a) For Petitioners: Margie DeHart, Property Owner
  - b) For Respondent: Cheryl Heath, Deputy County Assessor  
Dave Simmons, Representative of Pipe Creek Township

### **Facts**

7. The subject properties are classified as residential – vacant land, as is shown on the property record cards for parcel numbers 26-256-21 and 26-256-24.
8. The Administrative Law Judge (ALJ) did not conduct an inspection of the properties.
9. Assessed Value of subject properties as determined by the Madison County PTABOA:  
Parcel # 26-256-21 Land \$3,300  
Parcel # 26-256-24 Land \$3,300
10. Assessed Value requested by Petitioners for each property:  
Parcel # 26-256-21 Land \$1,500  
Parcel # 26-256-24 Land \$1,500

### **Issues**

11. Summary of Petitioners' contentions in support of alleged error in assessment:
  - a) The assessed value of the subject properties is excessive.
  - b) Property taxes for the subject properties increased excessively from the previous year.
12. Summary of Respondent's contentions in support of the assessment:
  - a) The subject parcels adjoin property that includes a dwelling.
  - b) The parcels containing the dwelling and the subject parcels are effectively one site location.

### **Record**

13. The official record for this matter is made up of the following:
  - a) The Petition and all attachments, labeled as Board Exhibit A
  - b) The Notice of Hearing, labeled as Board Exhibit B.
  - c) The tape recording of the hearing labeled BTR # 5958.
  - d) These Findings and Conclusions.

### **Analysis**

14. The most applicable governing cases are:

- a) A Petitioner seeking review of a determination of assessing official has the burden to establish a prima facie case proving by preponderance of the evidence, 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. 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 Petitioners did not provide sufficient evidence to support the their contentions. This conclusion was arrived at because:
- a) The Petitioners did not offer any evidence, such as comparative sales data or an appraisal, to establish the market value-in-use of the subject properties. Instead, the Petitioners relied solely upon conclusory assertions regarding the appropriate value for the subject properties. *DeHart testimony*. However, unsubstantiated conclusory statements do not constitute probative evidence. *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E.2d 1113, 1119 (Ind. Tax 1998).
  - b) The Petitioners therefore failed to establish a prima facie case that the current assessment is incorrect.

### **Conclusion**

16. The Petitioners failed to make a prima facie case. The Board finds in favor of 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.**