

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-5-00780; 45-001-02-1-5-00781; 45-001-02-1-5-00782;  
45-001-02-1-5-00783; 45-001-02-1-5-00784  
**Petitioner:** Dan A. Ionescu-Lungu  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001-25-45-0156-0019; 001-25-45-0156-0018; 001-25-25-0156-0032;  
001-25-45-0156-0001; 001-25-45-0156-0003  
**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 in January 2004, in Lake County, Indiana. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property was \$5,800 for parcel 001-25-45-0156-0019, \$5,800 for parcel 001-25-45-0156-0018, \$7,200 for parcel 001-25-45-0156-0032, \$68,200 for parcel 001-25-45-0156-0001, and \$6,700 for parcel 001-25-45-0156-0003, and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L for each parcel on April 30, 2004.
3. The Board issued a notice of hearing for each parcel to the parties on November 16, 2004.
4. A hearing was held on December 16, 2004, in Crown Point, Indiana before Special Master Peter Salvesson.

### Facts

5. The subject properties are located on Lake Street, Cypress, and Kennedy Terrace, Gary, in Calumet Township.
6. The subject property is a single-family residence on 0.283 acres of land, two unimproved residential lots consisting of .086 acres each, one unimproved residential lot consisting of 0.167 acres, and one unimproved residential lot consisting of 0.213 acres.
7. The Special Master did not conduct an on-site visit of the property.

8. The DLGF determined that the assessed value of the subject property was \$5,800 (land only) for parcel 001-25-45-0156-0019, \$5,800 (land only) for parcel 001-25-45-0156-0018, \$7,200 (land only) for parcel 001-25-45-0156-0032, \$18,700 for the land and \$49,500 for the improvements for a total assessed value of \$68,200 for parcel 001-25-45-0156-0001, and \$6,700 (land only) for parcel 001-25-45-0156-0003.
9. The Petitioner requests a value of \$3,500 (land only) for parcel 001-25-45-0156-0019, \$3,500 (land only) for parcel 001-25-45-0156-0018, \$5,000 (land only) for parcel 001-25-45-0156-0032, \$10,400 for the land and \$33,000 for the improvements for a total value of \$43,400 for parcel 001-25-45-0156-0001, and \$4,000 (land only) for parcel 001-25-45-0156-0003.
10. Dan A. Ionescu-Lungu, property owner, and Diane Spenos, representing the DLGF, appeared at the hearing and were sworn as witnesses.

### **Issue**

11. Summary of Petitioner's contentions in support of alleged error in assessment:
  - a) The Petitioner purchased the subject dwelling and all lots under appeal on March 18, 2002, for \$60,650. *Ionescu-Lungu testimony; Pet'r Ex. 1, 3.*
  - b) The subject property was listed for sale for \$70,000, and was on the market for 90 days. *Ionescu-Lungu testimony; Pet'r Ex. 2.*
  - c) The subject property was a foreclosure, and was purchased from CLT Financial. *Ionescu-Lungu testimony.* The property was abandoned, and has "mechanical issues." *Id.*
  - d) The subject properties should be valued together, and the assessment should be a reflection of the purchase price. *Ionescu-Lungu argument.*
  - e) There is a discrepancy in the way land is valued in the subject's neighborhood. *Id.*
12. Summary of Respondent's contentions in support of assessment:
  - a) Influence factors have been applied to the land to reflect the fact that the subject properties are contiguous. *Elliot testimony; Resp't Ex. 2.*
  - b) No comparable sales were available in the subject's neighborhood. *Elliot 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 - 1167.
- c) Exhibits:

Petitioner’s Exhibit 1:	Purchase Agreement
Petitioner’s Exhibit 2:	Subject Property Listing
Petitioner’s Exhibit 3:	Purchase Agreement Conditions
Petitioner’s Exhibit 4:	Survey of Subject Property

Respondent’s Exhibit 1:	Form 139L Petition
Respondent’s Exhibit 2:	Subject Property Record Card
Respondent’s Exhibit 3:	Subject Photograph

Board Exhibits A:	Form 139L Petition
Board Exhibits B:	Notice of Hearing
Board Exhibits C:	Hearing 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 did not provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:

- a) The Petitioner contends that the subject properties are overvalued in their assessments. This contention is based on the fact that the Petitioner purchased the properties together for \$60,650 on March 18, 2002. *Ionescu-Lungu testimony; Pet'r Ex. 1, 3.*
- b) The 2002 Real Property Assessment Manual ("Manual") defines the "true tax value" of real estate as "the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property." 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). The Manual further provides that for the 2002 general reassessment, a property's assessment must reflect its market value-in-use as of January 1, 1999. MANUAL at 4.
- c) The outcome of this case clearly depends on the probative value of the purchase agreement. Even though the Petitioner testified that the properties were purchased as a result of a foreclosure, and that the properties were abandoned, the Respondent did not question whether the purchase price was actually indicative of the market value of the property. It is therefore assumed that the purchase was an arm's-length transaction, and that the purchase price reflects the market value of the properties as of March 18, 2002.
- d) As stated above, however, the valuation date for the 2002 general reassessment is January 1, 1999. Consequently, a party relying on an appraisal to establish the market value-in-use of a property must provide some explanation as to how the appraised value demonstrates or is relevant to the property's value as of January 1, 1999. *See Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (holding that an appraisal indicating the value for a property on December 10, 2003, lacked probative value in an appeal from the 2002 assessment of that property). The same is true with regard to evidence of the sale price of a subject property, where the sale is consummated on a date substantially removed from January 1, 1999.
- e) Here, the Petitioner is relying on a purchase price that is over three years removed from the valuation date for the assessments. The Petitioner made no attempt to explain how the purchase price is relevant to the properties' value as of January 1, 1999. The Petitioner provided no evidence of whether the values of properties in the subjects' neighborhood increased or decreased between January 1, 1999 and March 18, 2002. As a result, the Petitioner's evidence lacks probative value, and is not sufficient to make a prima facie case of error in the assessment.
- f) Because the Petitioner failed to make a prima facie case, the burden never shifted to the Respondent to defend the assessments. Therefore, no change in the assessments is warranted.

### **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 assessments 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 Trail 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>.