

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-5-00132  
**Petitioner:** Darlene Crockett  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001254703520008  
**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 Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$114,700 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated October 27, 2004.
4. A hearing was held on December 1, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is a single family residence located at 2933 West 20<sup>th</sup> Avenue in Gary, Indiana.
6. The Special Master did not conduct an on-site visit of the property
7. Assessed Value of subject property as determined by the DLGF:  
Land \$25,100            Improvements \$89,600            Total \$114,700
8. Assessed Value requested by Petitioner on Form 139L petition:  
Land \$12,500
9. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

10. Persons sworn in at hearing:

For Petitioner: Darlene Crockett, Homeowner  
George A. Wilkes Jr., Appraiser

For Respondent: Tom Bennington, DLGF

**Issues**

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:

- a) The assessment of the subject land is significantly higher than its market value. *Crockett argument.* The Petitioner presented an appraisal of the land only. The appraisal estimates the market value of the land to be \$12,500 as of 1999. *Pet'r Ex. 1.*
- b) The assessment shows a  $\frac{3}{4}$  basement, but the basement is only  $\frac{1}{2}$  the area of the first floor. *Crockett argument.*

12. Summary of Respondent's contentions in support of the assessment:

- a) The subject property is assessed fairly according to neighborhood sales. *Bennington testimony.*
- b) The Respondent provided comparable sales data to support the assessment. *Resp't Ex. 4, 5.*

**Record**

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

- a) The Petition.
- b) Exhibits:

Petitioner Exhibit 1: Land Appraisal Report

Respondent Exhibit 1: Form 139L Petition

Respondent Exhibit 2: Subject Property Record Card (PRC)

Respondent Exhibit 3: Subject Photograph

Respondent Exhibit 4: Comparable Sales Summary

Respondent Exhibit 5: Comparable Sales PRCs and Photographs

Board Exhibit A: Form 139L Petition

Board Exhibit B: Notice of Hearing

Board Exhibit C: Sign in Sheet

d) These Findings and Conclusions.<sup>1</sup>

### 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 provided sufficient evidence to support her contentions regarding the value of the subject land. This conclusion was arrived at because:

- a) The Petitioner contends the subject land is assessed considerably higher than its market value. The Petitioner presented an appraisal of the land to support this contention.
- 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 2 (incorporated by reference at 50 IAC 2.3-1-2). A taxpayer may use evidence consistent with the Manual’s definition of true tax value, such as appraisals that are relevant to a property’s market value-in-use, to establish the actual true tax value of a property. *See MANUAL* at 5. Thus, a taxpayer may establish a prima facie case for a change in assessment based upon an appraisal that quantifies the market value of a property through use of generally recognized appraisal principles. *See Meridian Hills*, 805 N.E.2d at 479 (holding that the taxpayer established a prima facie case that its improvements were entitled to a 74% obsolescence depreciation adjustment based on an appraisal quantifying the improvements’ obsolescence through the cost and income capitalization approaches).

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<sup>1</sup> The Board typically tape records its hearings. Through inadvertence, the Board does not have a tape recording of the hearing in this case.

- c) The appraisal was performed by a qualified appraiser in accordance with generally accepted appraisal practices. The appraiser certified that he performed the appraisal in accordance with the Uniform Standards of Professional Appraisal Practice that were promulgated by the Appraisal Standards Board of the Appraisal Foundation. *Pet'r Ex. 1*. The appraiser based his estimate of value on the sale of comparable parcels of land, and he gave the most weight to a sale involving a property located next door to the subject property. *Id.* Moreover, the appraiser expressly estimated the market value of the subject land as of 1999, which reflects the Manual's requirement that, for the 2002 general reassessment, property be valued as of January 1, 1999.
  - d) The appraisal therefore constitutes probative evidence both that the current assessment of the land is incorrect and that the land value requested by the Petitioner is correct. Thus, the Petitioner has established a prima facie case for a change in the land portion of the current assessment.
  - e) Because the Petitioner established a prima facie case based on the appraisal, the burden shifted to the Respondent to impeach or rebut the appraisal. *See Meridian Towers*, 805 N.E.2d at 479.
  - f) The Respondent did not attempt to impeach the credibility of the appraisal offered by the Petitioner. Instead, the Respondent attempted to support the assessment through its own evidence of sales of purportedly comparable properties.
  - g) The Respondent presented property record cards for the subject property and four purportedly comparable properties. *Resp't Ex. 4, 5*. However, with the exception of age, square footage, grade and condition, the Respondent did not provide any explanation regarding how features of the purportedly comparable properties compared to the features of the subject property. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (holding that the petitioners failed to explain how the characteristics of the subject property compared to those of purportedly comparable properties or how any differences between the properties affected their relative market values-in-use).
  - h) Based on the foregoing, the Respondent failed to impeach or rebut the appraisal submitted by the Petitioner. The preponderance of the evidence supports a finding that the current land assessment is incorrect, and that the correct land assessment is \$12,500.
16. The Petitioner failed to provide sufficient evidence to support her contentions regarding the assessment of the subject basement. This conclusion was arrived at because:
- a) The Petitioner contends basement is incorrectly assessed. The Petitioner claims she is being assessed for a  $\frac{3}{4}$  basement, but it is actually a  $\frac{1}{2}$  basement.

- b) The subject property record card shows the Petitioner is being assessed for 1,296 square feet of basement, or only slightly more than ½ the area of the first floor (2,240 sq. ft.). *Resp't Ex. 2.*
- c) The Petitioner presented no evidence to show the basement was incorrectly assessed. The Petitioner's statement merely concludes the basement is incorrectly assessed. 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).

### **Conclusions**

#### Land

- 17. The Petitioner made a prima facie case that the land portion of the assessment is incorrect. The Respondent did not rebut the Petitioner's evidence. The Board finds in favor of the Petitioner and determines that the land portion of the assessment should be reduced to \$12,500.

#### Basement

- 18. The Petitioner failed to make a prima facie case on the issue of the basement. 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 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>>