

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition:** 45-001-002-1-5-00095A  
**Petitioners:** Delford W. & Alice M. Jones  
**Respondent:** Department of Local Government Finance  
**Parcel:** 001-15-26-0052-0013  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter. The Board finds and concludes as follows:

### Procedural History

1. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held. The Department of Local Government Finance (the DLGF) determined that the property tax assessment for the subject property is \$62,500 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 12, 2004.
3. The Board issued a notice of hearing to the parties on September 13, 2004.
4. Special Master Peter Salveson held the hearing in Crown Point on October 13, 2004.

### Facts

5. The subject property is located at 222 N. Oakwood Street in Griffith.
6. The subject property is a single-family home on 0.143 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. The assessed value of the subject property as determined by the DLGF is:  
Land \$14,500            Improvements \$48,000            Total \$62,500.
9. The assessed value requested by Petitioner on the Form 139L petition is:  
Land \$7,500            Improvements \$30,000            Total \$37,500.
10. Persons sworn as witnesses at the hearing:  
For Petitioner—Delford Jones, Owner,  
For Respondent—Larry Vales, Staff Appraiser, Cole-Layer-Trumble.

## **Issue**

11. Summary of Petitioners' contentions in support of alleged error in assessment:
  - a) The assessed value of the subject property does not reflect the condition of the dwelling. Evidence of condition includes the presence of an old oil tank, old windows, old wiring, bad gutters, and cracks in wall and ceiling plaster. *Jones Testimony; Petitioner Exhibit A.*
  - b) The assessed value of the garage does not reflect the condition of the garage because the garage door does not open and there is termite damage. *Jones Testimony; Petitioner Exhibit A.*
  
12. Summary of Respondent's contentions in support of assessment:
  - a) The condition of the subject property has been recognized with the application of a "fair" condition rating. *Vales Testimony; Respondent Exhibit 2.*
  - b) Three comparable sales support the current assessment because the subject property is valued approximately \$20,000 less than the sale prices of similar properties in average condition. *Vales Testimony; Respondent Exhibit 4.*
  - c) Respondent agreed that Petitioners' evidence indicated that the condition of the garage was not properly reflected in the assessment. Respondent recommended that the condition of the garage be changed to fair. *Vales 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. 524,
  - c) Exhibits:
    - Petitioner Exhibit A—Photos of subject property,
    - Respondent Exhibit 1—Form 139L,
    - Respondent Exhibit 2—Subject property record card,
    - Respondent Exhibit 3—Subject photo,
    - Respondent Exhibit 4—Comparable property record cards and photos,
    - 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 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.
  - d) A party must submit 'probative evidence' to support a claim. Mere allegations, unsupported by factual evidence, will not be considered sufficient to support a contention. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax 1998); *see also Herb v. State Bd. of Tax Comm'rs*, 656 N.E.2d 1230 (Ind. Tax 1998).
15. There is sufficient evidence to support Petitioners' contentions that the condition of the garage should be lower, but not the dwelling. This conclusion was arrived at because:
  - a) Condition is a rating assigned each structure that reflects its effective age in the market. It is determined by inspection of the structure and by relating the structure to comparable structures within the subject's neighborhood. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002—VERSION A, app. B at 5.
  - b) "Average" – This structure has been maintained like and is in the typical physical condition of a majority of structures in the neighborhood. It offers the same utility as the majority of structures in the neighborhood. It has the same location influences as the majority of structures in the neighborhood. *Id. at 7.*
  - c) "Fair" – The structure suffers from minor deferred maintenance and demonstrates less physical maintenance than the majority of structures within the neighborhood. It suffers from minor inutilities in that it lacks an amenity that the majority of structures in the neighborhood offer. It is in a less desirable location within the neighborhood than the majority of structures. *Id.*

- d) "Poor" Condition – The structure suffers from extensive deferred maintenance. It suffers from major inutilities in that it lacks several amenities that the majority of structures in the neighborhood offer. It is in a poor location within the neighborhood. *Id.*
- e) Petitioners’ evidence proves that the subject property suffers from some degree of deferred maintenance, but the evidence does not prove that the current condition of “fair” is incorrect. In fact, Petitioner testified about several repairs that he made to the property. Petitioner failed to prove that the problems and inadequacies at his house are so bad that the condition must be lowered to poor.
- f) The Respondent agreed the condition of the garage should be lowered and recommended that the condition of the garage be changed to “fair”.

**Conclusion**

- 16. Respondent agreed the condition of the garage should be changed. The Board finds in favor of the Petitioners’ claim regarding the garage, but not the dwelling. The condition of the garage should be changed to fair.

**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: \_\_\_\_\_

\_\_\_\_\_  
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>.