

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

**Petition:** 84-002-02-1-5-00576  
**Petitioner:** Donna Gisolo Christenberry  
**Respondent:** Harrison Township Assessor (Vigo County)  
**Parcel:** 118-06-28-406-004  
**Assessment Year:** 2002

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

**Procedural History**

1. Petitioner initiated an assessment appeal with the Vigo County Property Tax Assessment Board of Appeals (PTABOA) by written document dated October 27, 2003.
2. Petitioner received notice of the decision of the PTABOA on July 29, 2004.
3. Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on August 30, 2004. Petitioner elected to have this case heard according to small claim procedures.
4. The Board issued a notice of hearing to the parties dated February 1, 2005.
5. Administrative Law Judge Rick Barter held the administrative hearing in Terre Haute on March 9, 2005.
6. Persons present and sworn in at hearing:  
For Petitioner – Donna Gisolo Christenberry, property owner,  
For Respondent – Larry Auler, Harrison Township Assessor,  
Richetta J. Hale, Harrison Township Chief Deputy,  
Jennifer Becker, Vigo County Assessor representative,  
Shari Arven, Vigo County Assessor's Office,  
Susan McCarty, Vigo County Chief Deputy Assessor.

## Facts

7. The subject property is a 1,889 square foot single story frame residential dwelling on a lot measuring 35 feet by 142 feet. It is located at 1116 South Fourth Street in Terre Haute.
8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
9. The assessed value of the subject property as determined by the Vigo County PTABOA:  
Land \$6,900                      Improvements \$23,300                      Total \$30,500.
10. The assessed value requested by Petitioner:  
Land \$4,000                      Improvements \$21,000                      Total \$25,000.

## Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
  - a) The 2002 assessed value of the subject property is over-stated compared to the value of the subject property established in two fee appraisals. The appraisals show that the market value of similar homes in the area is several thousand dollars lower than the assessed value of the subject. *Christenberry testimony.*
  - b) A licensed, professional appraiser performed an appraisal in March 2001 for the subject property to establish a value for the purpose of estate planning. The value established for the subject property by this appraisal is \$28,000. *Christenberry testimony; Petitioner Exhibit 7.*
  - c) Another appraisal was performed, by a licensed, professional appraiser, in February 2003 for the subject property for the purpose of estate settlement. The value established for the subject property by this appraisal is \$25,000. *Christenberry testimony; Petitioner Exhibit 5.*
  - d) The market values of property in the area have appreciated slightly, but not significantly, from January 1, 1999 to the current year. *Christenberry testimony.*
12. Summary of Respondent's contentions in support of the assessment:
  - a) The appraisals presented by Petitioner both use a land value of \$4,500. Using the same land value for both 2001 and 2003 makes the values established in the appraisals suspect. *Becker testimony; Respondent Exhibit 1.*
  - b) The appraisals presented by Petitioner were performed for the purposes of estate planning and settlement. Because the appraisals were performed for estate purposes, the true intent of the appraisals are suspect. *Becker testimony; Respondent Exhibit 1.*

- c) The market values in the area, while appreciating slightly, have not changed significantly since January 1, 1999. *Becker testimony; Hale testimony.*
- d) The property located at 1202 South Fourth Street sold for \$52,800. The property located at 1208 South Fourth Street sold for \$59,300. The property located at 825 South Fourth Street sold for \$58,700. *Respondent Exhibit 5.* These sales show the sales for the subject property's neighborhood. *Auler 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 BTR 6195,
  - c) Exhibits:
    - Petitioner Exhibit 1 – The subject property record card,
    - Petitioner Exhibit 2 – Copies of four photographs of the subject property,
    - Petitioner Exhibit 3 – Form 115 issued after the PTABOA hearing,
    - Petitioner Exhibit 4 – Form 131,
    - Petitioner Exhibit 5 – An appraisal of subject property dated February 17, 2003,
    - Petitioner Exhibit 6 – A copy of the comparable page from the appraisal,
    - Petitioner Exhibit 7 – An appraisal of subject property dated March 28, 2001,
    - Petitioner Exhibit 8 – A copy of the comparable page from the 2001 appraisal,
    - Petitioner Exhibit 9 – A copy of the Form 130,
    - Respondent Exhibit 1 – A summary of contentions,
    - Respondent Exhibit 2 – Form 115,
    - Respondent Exhibit 3 – The subject property record card,
    - Respondent Exhibit 4 – Chapter 2, Pages 7, 8, 9 from the REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A,
    - Respondent Exhibit 5 – The property record cards for 3 properties in subject neighborhood that sold in 2003 and 2004,
  - 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 sufficient evidence to support her contentions. This conclusion was arrived at because:
- a) The 2001 appraisal estimates the value of the subject property at \$28,000. The 2003 appraisal estimates the value of the subject property at \$25,000. These appraisals were performed by a licensed professional appraiser. The undisputed testimony reveals that the market values in the area have remained relatively stable from January 1, 1999 to date. Therefore, the appraisals have probative value in establishing what the assessed value of this property should be for the 2002 reassessment. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
  - b) The appraisals of the subject property are sufficient to establish a prima facie case that the current assessment is incorrect and what the correct assessment should be. The burden has shifted to the Respondent to present evidence to rebut or impeach Petitioner’s evidence. *American United*, 803 N.E.2d 276; *Meridian Towers*, 805 N.E.2d at 479. While the values established by both appraisals are similar, the appraisal as of March 28, 2001, \$28,000, is the most persuasive evidence of what the assessed value should be because it is the one that is closest in time to both the valuation date and the assessment date.
  - c) Respondent questioned certain points in the appraisals in an attempt to show that the values established by these appraisals were flawed. Respondent first noted that the appraisals represented values for two different years, but the land value the appraiser relied upon was the same for both years. Respondent’s own testimony established that the market value of property in the area did not change significantly since January 1, 1999. Because Respondent’s own evidence contradicts itself, Respondent’s attempt to raise doubt regarding the values established by the appraisals fails.
  - d) Respondent also opined that the appraisals were questionable because they were performed for estate planning and settlement. Respondent did not offer any proof or explanation about how this fact affected the reported value. Respondent just

pointed to the purposes of the appraisals and concluded that the values reported were less than reliable. Simply making a conclusory statement that the values are suspect fails to rebut or impeach the values reported by the appraisals. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003); *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

- e) Additionally, Respondent pointed to the sales of three properties located on South Fourth Street and claimed these sales represent the values for the neighborhood. While these sales may well represent the market value for that particular area, Respondent failed to explain how or why these sales were relevant to the subject property. Respondent did not establish that the subject property was comparable to these properties. In fact, the Respondent did not even establish that the subject property was in the same neighborhood as these properties. The presentation of the property record cards for three properties on South Fourth Street, without any explanation, does not rebut or impeach the Petitioner's evidence. *Long*, 821 N.E.2d at 471.

### **Conclusion**

- 16. Petitioner made a prima facie case. Respondent did not rebut Petitioner's evidence. The Board finds in favor of Petitioner.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the total assessment should be changed to \$28,000.

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>.