

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-032-02-1-5-00054  
**Petitioners:** Edward J. & Amy L. Alonso  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 009-09-11-0125-0003  
**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. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$113,600. The Petitioner was notified on March 31, 2004, by an administrative correction issued by the DLGF.
2. The Petitioner filed a Form 139L on April 12, 2004.
3. The Board issued a notice of hearing to the parties dated July 20, 2004.
4. A hearing was held on August 24, 2004, in Crown Point, Indiana before Special Master S. Sue Mayes.

### Facts

5. The subject property is a single-family residence at 5360 W. 73rd Ave., Schererville, St. John Township in Lake County.
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 \$22,100                      Improvements \$91,500.
8. Assessed Value requested by Petitioner:  
Land \$20,900                      Improvements \$89,100.
9. The persons indicated on the attached sign-in sheet (Exhibit C) were present at the hearing.

10. Persons sworn in at hearing:
- For Petitioner: Edward J. Alonso, Petitioner
- For Respondent: David M. Depp, CLT representing DLGF

### Issues

11. Summary of Petitioner's contentions in support of alleged error in assessment:
- The house does not contain a fireplace and never has. An appraisal report as of April 9, 2002, indicates that there is no fireplace. *Petitioner Exhibit 3. Alonso testimony.*
  - The value of the land is overstated because the land does not have city water or sewer services. The land has a well and septic. Comparable parcels #009-09-11-0125-0004 and #009-09-11-0125-0002 show that the subject land value is over estimated. *Petitioner Exhibit 6 & 7. Alonso testimony.*
12. Summary of Respondent's contentions in support of assessment:
- The fireplace should be removed. *Depp testimony.*
  - The land values are set by the land orders, which have been approved by the DLGF and Crowe, Chizek & Company LLC. Petitioner should receive the same influence adjustment as the neighboring parcel. *Depp testimony.*
  - The subject property has been compared to three other parcels. The comparables sheet shows that the total value placed on the subject property is correct. *Respondent Exhibit 3. Depp testimony.*

### Record

13. The official record for this matter is made up of the following:
- The Petition
  - Exhibits:
    - Petitioner Exhibit 1: Form 139L, page 1
    - Petitioner Exhibit 2: Petitioner's Argument
    - Petitioner Exhibit 3: Appraisal Report
    - Petitioner Exhibit 4: 1995 property record card (PRC) for parcel #009-09-11-0125-0003
    - Petitioner Exhibit 5: 2002 PRC for parcel #009-09-11-0125-0003
    - Petitioner Exhibit 6: 2002 PRC for parcel #009-09-11-0125-0004
    - Petitioner Exhibit 7: 2002 PRC for parcel #009-09-11-0125-0002
  
    - Respondent Exhibit 1: none
    - Respondent Exhibit 2: PRC for parcel #009-09-11-0125-0003
    - Respondent Exhibit 3: Comparables spread sheet with PRCs and photographs for parcels #009-09-11-0153-0100, #009-09-11-0139-0002 and #009-09-11-0015-0045
  - These Findings and Conclusions.

## Analysis

14. The most applicable governing cases and regulations are:
- a. A Petitioner seeking review of a determination of the DLGF 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 Board of Tax Commissioners*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Board of Tax Commissioners*, 689 N.E. 2d 765 (Ind. Tax Ct. 1997).
  - 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. Wash. 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. The improved land value estimate represents the cost of vacant land, plus the depreciated cost of a water well and septic system or public hook-up fees. *Real Property Assessment Guidelines for 2002-Version A*, Chapter 2, page 18

## Fireplace

15. The Petitioner provided sufficient evidence to support the Petitioner’s contention that he should not be assessed for a fireplace. This conclusion was arrived at because the appraisal report shows that the Petitioner does not have a fireplace. *Petitioner Exhibit 3 and Alonso testimony*. In addition, Respondent agreed that the assessment should not include value for a fireplace. *Depp testimony*.

## Land Value

16. The Petitioner did not provide sufficient evidence to support the Petitioner’s contention the land value was overstated. Petitioner provided PRCs for parcels #009-09-11-0125-0004 and #009-09-11-0125-0002 as comparables to support his contention. *Petitioner Exhibits 6 & 7*. Both of the PRCs show the same base rate per effective foot frontage as Petitioner’s PRC. Parcel #009-09-11-0125-0004 has the same influence factor as Petitioner’s parcel. Parcel #009-09-11-0125-0002 received a greater influence factor due to the parcel being vacant land. Petitioner did not explain how, in his view, this information supported any change to the assessment on his land.

### Conclusions

17. The Petitioner made a prima facie case regarding removal of the value of a fireplace, which Respondent did not rebut. The Board finds in favor of Petitioner on changing the assessment to remove the fireplace.
18. The Petitioner failed to make a prima facie case as it pertained to the assessment of the land. The Board finds in favor of the Respondent on that issue. No change in the assessment of the land is made.

### Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to reflect the removal of a fireplace.

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.**