

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-032-02-1-5-00018  
**Petitioner:** Frank R. Sapyta  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 009-22-12-0027-0010  
**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 \$149,600 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 2, 2004.
3. The Board issued a notice of hearing to the parties dated July 7, 2004.
4. Special Master Michael R. Schultz held the hearing in Crown Point on September 8, 2004.

### Facts

5. The subject property is located at 10023 W. 93<sup>rd</sup> St., St. John, in St. John Township.
6. The subject property is a single family, tri-level home located on a .416-acre lot.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of subject property as determined by the DLGF:  
Land: \$10,300                      Improvements: N/A                      Total: \$10,300.
9. Assessed Value requested by the Petitioner:  
Petitioner did not state proposed values for the land and improvements.

10. The following persons were sworn as witnesses at the hearing:  
For Petitioner: Frank R. Sapyta, property owner,  
For Respondent: Larry Vales, Project Supervisor, Cole-Layer-Trumble.

### **Issue**

11. Summary of the Petitioner's contentions in support of alleged error in assessment:
- a) The Petitioner's property consists of two parcels: this vacant lot and an adjoining lot with a residence.<sup>1</sup>
  - b) The Petitioner introduced a Comparative Market Analysis prepared by Century 21 Executive Realty (Century 21). This analysis determined the combined total of the house and both lots was \$140,000 on July 24,2000.
  - c) The Century 21 Comparative Market Analysis did not provide separate values for the two parcels of land or provide a breakdown of the separate values of the land and improvements. *Sapyta testimony; Petitioner Exhibit 1.*
  - d) The Petitioner obtained information from the St. John Township Assessor's office indicating the valuation date is 1999. The Petitioner contended the value should be lower than the 2000 analysis by Century 21. *Sapyta testimony; Petitioner Exhibit 1.*
  - e) The St. John Assessor's office told the Petitioner the time adjustment factor is .94. *Sapyta testimony; Petitioner Exhibit 2.*
12. Summary of Respondent's contentions in support of assessment:
- a) Respondent stated that this parcel was assessed as a vacant lot, using the front foot method, and it received a 20% negative influence factor as a non-buildable lot. *Vales testimony; Respondent Exhibit 2.*
  - b) Respondent agreed that to trend July 2000 values to January 1, 1999, the time adjustment factor for St. John Township would be .94132. *Vales testimony.*

### **Record**

13. The official record for this matter is made up of the following:
- c) The Petition.
  - b) The tape recording of the hearing labeled Lake County #410.
  - c) Exhibits:
    - Petitioner Exhibit 1: Comparative Market Analysis by Century 21.
    - Petitioner Exhibit 2: Time adjusted calculation.
    - Respondent Exhibit 1: 139L Petition.
    - Respondent Exhibit 2: Property record card of the Petitioner's property.
    - Respondent Exhibit 3: Map and aerial photograph.
  - d) These Findings and Conclusions.

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<sup>1</sup> The assessment of the adjoining parcel is being appealed separately in Petition #45-032-02-1-5-00017.

## Analysis

14. The most applicable governing cases:
  - 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 did not provide sufficient evidence to support the Petitioner’s contention that the assessment should be lower than \$10,300. This conclusion was arrived at because:
  - a) In support of his position, the Petitioner provided a Comparative Market Analysis prepared by Century 21 as of July 24, 2000.
  - b) This Comparative Market Analysis provided only a combined total value for two parcels of land and the improvements constructed on one of the parcels. It did not value the vacant parcel separately from the improved parcel containing the Petitioner’s home. Similarly, the Comparative Market Analysis offered no breakdown of the total value between land and improvements.
  - c) Further, the Comparative Market Analysis consisted of a one-page cover letter that indicated a proposed total value of \$140,000 and several attachments of purported comparable properties. This analysis failed, however, to explain the manner in which the characteristics of the Petitioner’s property compared to those of the purportedly comparable properties. Unsubstantiated conclusions concerning the comparability of properties do not constitute probative evidence. *Long v. Wayne Twp. Assessor*, No. 49T10-0404-TA-20, slip op. at 6-8 (Ind. Tax Ct. January 28, 2005); *Blackbird Farms Apts., LP v. Dep’t of Local Gov’t Fin.*, 765 N.E.2d 711 (Ind. Tax Ct. 2002); *Whitley Prods., Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
  - d) The Petitioner failed to present probative evidence to establish a value lower than the current total assessment of \$149,600 for the parcel under appeal. Petitioner failed to establish a prima facie case of error and Respondent’s obligation to rebut was not triggered. *See Blackbird*, 765 N.E.2d at 715 (explaining that when a petitioner does not present a prima facie case, the duty to support the assessment with substantial evidence is not triggered).

**Conclusion**

16. The Petitioner failed to establish a prima facie case. The Board finds in favor of Respondent.

**Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should not 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.**