

INDIANA BOARD OF TAX REVIEW

**Final Determination
Findings and Conclusions
Lake County**

Petition #: 45-026-02-1-5-01257
Petitioners: Glenn & Cheryl Boske
Respondent: Department of Local Government Finance
Parcel #: 007182805790037
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 January 13, 2004, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the property tax assessment for the subject property was \$251,220 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 26, 2004.
3. The Board issued a notice of hearing to the parties dated September 20, 2004.
4. A hearing was held on October 21, 2004, at 8:50 a.m. in Crown Point, Indiana before Special Master Dalene McMillen.

Facts

5. The subject property is located at 10321 Clark Court, Munster, North Township in Lake County.
6. The subject property is a ranch unit townhouse condominium.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed value of the subject property as determined by the DLGF:
Land: -0- Improvements: \$251,220 Total: \$251,220
9. Assessed value requested by the Petitioners:
Land: -0- Improvements: \$232,100 Total: \$232,100

10. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.
11. The following persons were sworn in at the hearing:

For the Petitioners: Glenn Boske, Owner

For the DLGF: Sharon S. Elliott, Staff Appraiser, CLT

Issue

12. Summary of Petitioners' contentions in support of alleged error in assessment:

The Petitioners contend that the square footage of the subject dwelling is overstated. In support of this contention, the Petitioners submitted measurements of the subject property. *Petitioner Exhibit 3; Boske testimony.*

13. Summary of Respondent's contentions in support of assessment:

The Respondent testified that as a result of the informal hearing the subject dwelling was re-measured and the measurements were found to be close to the original measurements. *Elliott testimony.*

Record

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

- a) The Petition, and all subsequent submissions by either party.
- b) The tape recording of the hearing labeled Lake Co. #349.
- c) The following exhibits were presented:

Petitioners Exhibit 1 – Form 139L petition, a copy of the Notice of Final Assessment, 1998 property record card, and 2002 property record card.

Petitioners Exhibit 2 – Photographs and real estate property assessments for the subject and the following comparables; Leland McDonald, Neil Gailmard, the Flynn Family, and Deniz Sidkey.

Petitioners Exhibit 3 – A sketch of the subject dwelling.

Respondent Exhibit 1 – A copy of the Form 139L petition, dated April 26, 2004.

Respondent Exhibit 2 – A copy of 2002 property record card.

Respondent Exhibit 3 – A photograph of the subject property.

Respondent Exhibit 4 – A sheet of the top three (3) comparables and a sheet of the top twenty (20) comparables and statistics.

Respondent Exhibit 5 – Comparable property record cards and photographs for

the following: Lawrence Anaszewicz, James Quinn, and Robert Ruffin.

Respondent Exhibit 6 – Comparable property record cards and photographs for the following: Leland McDonald, Deniz Sidkey, and Neil Gailmard.

Respondent Exhibit 7 – A letter from Sharon Elliot, dated October 22, 2004, a memorandum from Sharon Elliott and Glenn Boske, dated October 22, 2004, a revised 2002 property record card for the subject, and a sketch of the subject dwelling.

Board Exhibit A – Form 139L petition, dated April 26, 2004.

Board Exhibit B – Notice of Hearing on Petition, dated September 20, 2004.

Board Exhibit C – Hearing sign-in sheet.

Board Exhibit D – Request for additional evidence from the parties, asking the parties to measure the subject property.

d) These Findings and Conclusions.

Analysis

15. 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.
16. The Petitioners provided sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) At the hearing, the parties testified regarding different measurements of the subject dwelling. The Special Master instructed the parties to meet in order to measure the dwelling. The Special Master further instructed the parties to submit their

measurements, including the total square footage of the subject dwelling, on or before October 27, 2004.

- b) By memorandum dated October 22, 2004, the parties indicated that they re-measured the subject dwelling. *Respondent Exhibit 7*. Attached to the memorandum was a sketch of the subject dwelling and a revised property record card. *Id.* The sketch indicates that the subject dwelling contains 1991 square feet. *Id.* The revised property record card indicates a total assessed value for the subject property of \$233,800.

Conclusion

- 17. The parties measured the subject dwelling and indicated that it contains 1991 square feet, which results in a revised assessed value for the subject property of \$233,800. The Board therefore finds that the total assessed value of the subject property should be reduced to \$233,800.

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.