

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-032-02-1-5-00393  
**Petitioner:** Gordon M. Ivetich  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 009-09-11-0237-0001  
**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 (the "DLGF") determined that the Petitioner's property tax assessment for the subject property was \$145,200 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 26, 2004.
3. The Board issued a notice of hearing to the parties dated November 5, 2004.
4. Special Master Barbara Wiggins held a hearing in Crown Point on December 8, 2004.

### Facts

5. The subject property is located at 14576 W. 93<sup>rd</sup> Avenue, Dyer.
6. The subject property is a single family residence.
7. The Special Master did not conduct an on-site visit of the property
8. The assessed value of subject property as determined by the DLGF:  
Land \$33,200                      Improvements \$112,000                      Total \$145,200.
9. The Petitioner did not request a specific assessed value.
10. The following persons were present and sworn in at hearing:  
For Petitioner – Gordon Ivetich, property owner,  
For Respondent – Sharon Elliott, DLGF.

## **Issues**

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
  - a) The measurements recorded and used to establish a value for the wood deck are incorrect. *Ivetich testimony*. The correct dimensions are shown on the sketch provided. *Ivetich testimony; Petitioner Exhibit 3*.
  - b) The basement area is unfinished rather than finished. *Ivetich testimony; Petitioner Exhibit 9, 10, 11, 12*. The value for the basement area should be corrected to reflect the lack of finish. *Ivetich testimony*.
  
12. Summary of Respondent's contentions in support of the assessment:
  - a) The dimensions listed on the property record card are incorrect and should be correct to reflect the dimensions presented by the Petitioner. *Elliott testimony*.
  - b) The basement area should be valued as unfinished rather than finished. *Elliott 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 County 838,
  - c) Exhibits:
    - Petitioner Exhibit 1 – A copy of the Form 139L,
    - Petitioner Exhibit 2 – A copy of the Notice of Department Assessed Value Determination,
    - Petitioner Exhibit 3 – A sketch of the wood deck and dimensions,
    - Petitioner Exhibit 4 – The subject property record card,
    - Petitioner Exhibit 5 – A copy of the Notice of Assessment,
    - Petitioner Exhibit 6 – A photograph showing the east side of the wood deck,
    - Petitioner Exhibit 7 – A photograph showing the north side of the wood deck,
    - Petitioner Exhibit 8 – A photograph showing the west side of the wood deck,
    - Petitioner Exhibit 9 – An interior photograph of the north basement wall,
    - Petitioner Exhibit 10 – An interior photograph of the south basement wall,
    - Petitioner Exhibit 11 – An interior photograph of the east basement wall,
    - Petitioner Exhibit 12 – An interior photograph of the south basement wall,
    - Petitioner Exhibit 13 – The subject property record card,
    - Respondent Exhibit 1 – A copy of the Form 139L,
    - Respondent Exhibit 2 – The subject property record card,
    - Respondent Exhibit 3 – A photograph of the subject property,
    - Respondent Exhibit 4 – The Top 20 Comparables with the property record cards and photographs of the selected comparables attached,

Respondent Exhibit 5 – A listing of sales with the property record card and photographs of the selected sales attached,  
Respondent Exhibit 6 – The description of a story height designs from the 2002 Real Property Assessment Guideline – Version A,  
Board Exhibit A – The Form 139L,  
Board Exhibit B – The Notice of Hearing,  
Board Exhibit C – The Hearing Sign in Sheet,

d) These Findings and Conclusions.

### **Analysis**

14. The most applicable laws 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. The Petitioner provided sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
- a) The undisputed evidence shows that the dimensions recorded on the property record card for the wood deck are incorrect and that the correct dimensions are reflected by the Petitioner’s evidence. *Ivetich testimony; Elliott testimony; Petitioner Exhibit 3.*
  - b) The undisputed testimony shows that the basement area is incorrectly valued as finished area and should be valued as unfinished area. *Ivetich testimony; Elliott testimony; Petitioner Exhibit 9, 10, 11, 12.*

### **Conclusion**

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

## 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: \_\_\_\_\_

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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>>.