

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition:** 45-016-02-1-5-00108  
**Petitioner:** Gregory S. Greener  
**Respondent:** Department of Local Government Finance  
**Parcel:** 006-27-18-0022-0023  
**Assessment Year:** 2002

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

### Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held. The Department of Local Government Finance (the DLGF) determined that the property tax assessment for the subject property is \$145,300 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 23, 2004.
3. The Board issued a notice of hearing to the parties dated October 22, 2004.
4. Special Master Patti Kindler held the hearing in Crown Point on November 30, 2004.

### Facts

5. The subject property is located at 118 South California Street, Hobart. The location is in Hobart Township, Lake County.
6. The subject property is a residential dwelling built in 1963 with an attached garage.
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 \$26,300    Improvements \$119,000    Total \$145,300.
9. During the appeal hearing Petitioner requested a total assessed value of \$110,000. The Petitioner did not segregate the values between land and improvements.
10. The following persons were sworn as witnesses at the hearing:  
For Petitioner — Gregory S. Greener, owner,  
For Respondent — Tommy P. Bennington, assessor/auditor.

## Issue

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
  - a. The assessed value of \$145,300 is excessive based on surrounding neighborhood values. There are no homes in the neighborhood that would sell for \$145,300. Most homes in the neighborhood would sell for somewhere between \$80,000 and \$110,000. *Greener testimony.*
  - b. The property was purchased on the open market in 1995 for \$110,000. If the property were marketed, it would not sell for close to the assessed value. The market value and correct assessment would be around \$110,000. *Id.*
  - c. Respondent's comparable properties, all with assessed values below \$70,000, support Petitioner's contentions that a poor location will negatively affect the value of a nice home. One of Respondent's comparable properties is assessed at \$66,000, compared to the \$145,300 subject assessment. *Id.*
  
12. Summary of Respondent's contentions in support of the assessment:
  - a. A comparable grid, photographs and property record cards were submitted for three purported comparable properties, which sold for \$75,000, \$77,000 and \$81,000 between 1998 and 2000. *Respondent Exhibits 4, 5.*
  - b. The comparable properties, which are similar type homes, are frame rather than brick, have smaller lots, and are in a different neighborhood than the subject property. *Bennington testimony; Respondent Exhibit 5.*
  - c. Respondent could not find any comparable brick ranch homes in the same neighborhood that were similar to the subject. The computer software tries to pick out the most similar properties in similar neighborhoods. *Bennington 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 IBTR 844,
  - c. Exhibits:  
The Petitioner did not submit any exhibits for the record,  
Respondent Exhibit 1: Form 139L petition,  
Respondent Exhibit 2: Subject property record card (PRC),  
Respondent Exhibit 3: Subject property photograph – front view,

Respondent Exhibit 4: Comparable grid showing three highlighted properties,  
Respondent Exhibit 5: PRCs and photographs for three comparables,  
Board Exhibit A: Form 139L petition,  
Board Exhibit B: Notice of Hearing,  
Board Exhibit C: 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 did not provide sufficient evidence to support his contentions. This conclusion was arrived at because:

- a. Petitioner contends the assessed value of \$145,300 is excessive for his neighborhood and much higher than the value the property would have on the open market. Petitioner testified that the property should be valued at \$110,000. This unsupported, conclusory opinion has no probative value. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E. 2d 1113, 1119 (Ind. Tax 1998).
- b. Indiana's assessment regulations provide that for the 2002 general reassessment, a property's assessment must reflect its value as of January 1, 1999. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005); 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on a purchase price to establish the market value-in-

use must provide some explanation as to how the purchase price demonstrates, or is relevant to, that value as of January 1, 1999. *Long*, 821 N.E.2d at 471.

- c. Petitioner testified that he purchased the property for \$110,000 on February 3, 1995, approximately four years prior to the valuation date. Petitioner did not explain how this purchase price demonstrates, or is relevant to, the property's value as of January 1, 1999. Accordingly, the purchase price is not probative evidence of error in the assessment. *Id.*
- d. Petitioner opined that "no homes in the subject neighborhood would sell for \$145,000" and "most home sales in the neighborhood would range from \$80,000 to \$110,000." Petitioner presented no market evidence of neighborhood home sales, comparable assessments or property record cards to support these contentions. Petitioner's conclusory statements are not probative evidence. *Whitley Products*, , 704 N.E. 2d at 1119.
- e. Respondent's duty to defend the assessment with substantial evidence was never triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1222 (Ind. Tax Ct. 2003).

### **Conclusion**

16. The Petitioner failed to make a prima facie case. The Board finds in favor of the Respondent. There is no change to the assessment.

### **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.**