

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-032-02-1-5-00024  
**Petitioner:** Halfman Living Trust c/o Leanne P. Halfman  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 009121402010014  
**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 on November 20, 2003, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$186,200 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on March 30, 2004.
3. The Board issued a notice of hearing to the parties dated July 22, 2004.
4. A hearing was held on September 10, 2004, in Crown Point, Indiana before Special Master Kathy J. Clark. Due to information presented during this hearing, a continuance was granted to give the Respondent time to inspect the subject property. The final hearing was held on September 14, 2004.

### Facts

5. The subject property is located at 37 Inverness Lane, Dyer, in St. John Township.
6. The subject property is a single family, brick and frame dwelling that sits on a lot measuring 67 feet by 103 feet.
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 \$40,900 Improvements \$145,300 Total \$186,200.
9. Assessed Value requested by Petitioner:  
Land \$40,000 Improvements \$95,000 Total \$135,000.
10. The following persons were present and sworn in at the hearing:  
For Petitioner: Leanne P. Halfman, Trustee

For Respondent: Sharon S. Elliott, Staff Appraiser, Cole-Layer-Trumble

## Issues

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
  - a) The Petitioner signed a contract with the builder for \$262,864 for the cost of the lot and the construction of a dwelling on June 7, 2000. *Petitioner Exhibit 1.*
  - b) Due to the poor construction quality exhibited by the builder, the Petitioner paid a settlement sum of \$150,000 for land and for work performed to date in November of 2001 and then completed the construction with the help of other contractors and relatives. *Halfman testimony. Petitioner Addendum Exhibit 2, part 3, page 6. Id.*
  - c) Petitioner paid a total of \$246,359 for the land and construction of the dwelling. *Petitioner Addendum Exhibit 2, page 3. Id.*
  - d) The dwelling was not completed until April 1, 2003, as demonstrated by the Occupancy Permit. *Petitioner Addendum Exhibit 1.*
  - e) Sales in the subdivision have declined in value over the last four years. *Petitioner Exhibits 2 and 3.*
  - f) The dwelling currently is insured for a replacement cost of \$252,500. *Petitioner Exhibit 4.*
  
12. Summary of Respondent's contentions in support of the assessment:
  - a) The Respondent noticed what appeared to be several errors on the subject property record card in regards to floor heights. The Respondent offered to go to the subject property to review these discrepancies. *Respondent Exhibit 2. Elliott testimony.*
  - b) The Respondent testified that, based upon the items the Petitioner says were completed by November of 2001, the dwelling was 60% complete as shown on the subject property record card. *Elliott testimony.*
  - c) Based on the site inspection that took place between September 10, 2004, and the final hearing held on September 14, 2004, the Respondent offered corrections to the listed floor heights. *Respondent Exhibit 5. Elliott testimony.*

## Record

13. 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 BTR #376.
  - c) Exhibits:
    - Petitioner Exhibit 1: Contract for sale dated June 7, 2000.
    - Petitioner Exhibit 2: Multiple listing service comparable properties.
    - Petitioner Exhibit 3: Multiple listing service sale of adjacent property dated March 22, 2002.
    - Petitioner Exhibit 4: State Farm homeowners insurance policy dated January 25, 2004. Exhibit 3.
    - Petitioner Addendum Exhibit 1: Occupancy Permit dated April 1, 2003.
    - Petitioner Addendum Exhibit 2: Receipts for land and construction.
    - Petitioner Addendum Exhibit 3: Comparable property assessments.

Respondent Exhibit 1: Form 139L.  
Respondent Exhibit 2: Subject property record card.  
Respondent Exhibit 3: Subject photograph.  
Respondent Exhibit 4: Neighboring property record cards and photographs.  
Respondent Exhibit 5: Corrected subject property record card.

Board Exhibit A: Form 139 L.  
Board Exhibit B: Notice of Hearing.  
Board Exhibit C: Sign in Sheet.

d) These Findings and Conclusions.

### Analysis

14. The most applicable cases are:
- a) The Petitioner must submit ‘probative evidence’ that adequately demonstrates the alleged error. Mere allegations, unsupported by factual evidence, will not be considered sufficient to establish an alleged error. *Whitley Products, Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113 (Ind. Tax 1998), and *Herb v. State Bd. of Tax Comm’rs*, 656 N.E.2d 1230 (Ind. Tax 1998).
  - b) Essentially, the Petitioner must do two things: (1) prove that the assessment is incorrect; and (2) prove that the specific assessment he seeks, is correct. In addition to demonstrating that the assessment is invalid, the Petitioner also bears the burden of presenting sufficient probative evidence to show what assessment is correct. *State Bd. of Tax Comm’rs v. Indianapolis Racquet Club, Inc.*, 743 N.E.2d 247, 253 (Ind. 2001), and *Blackbird Farms Apartments, LP v. DLGF*, 765 N.E.2d 711 (Ind. Tax 2002).
15. The Petitioner did not provide sufficient evidence to establish a prima facie case for the requested value of \$135,000. This conclusion was arrived at because:
- a) The Petitioner failed to present sufficient evidence to prove the complete cost of construction of the dwelling. The documents presented for the original “sale” of the property between the Petitioner and the original builder stipulate that the value of \$262,864 is agreed to as the price except “For any extras furnished or changes made at the request of the second party (Petitioner), said second party shall pay an additional sum equal to the current market value of such changes or extras....”  
*Petitioner Exhibit 1.*
  - b) The Petitioner paid the original builder \$150,000 for the property in November of 2001. The Petitioner then completed the remaining portion of the structure with the help of family members and hired contractors. However, costs such as labor must be included in the estimated cost of a structure, even if such costs were not realized (as in the case of do-it-yourself construction). *Version A – Real Property Assessment Guideline, Introduction, page 1.*
  - c) Further, the Petitioner did not present any evidence indicating the 60% completion amount used in assessing the subject property was incorrect. The Petitioner did not present any evidence indicating a more appropriate percentage of completion should be used.

- d) The exhibits submitted by the Petitioner to demonstrate lower selling properties or unsold properties within the subdivision either lacked sufficient data to perform a comparison analysis or were for properties under construction at the time of sale. A description of the properties, listing of amenities, and quality of materials used is required to establish whether a property is comparable to the subject property. *Petitioner Exhibits 2 and 3.*
- e) As indicated, the dwelling is currently insured for a replacement cost of \$252,500, far exceeding the current assessed value. *Petitioner Exhibit 4.*
- f) The Respondent testified that an error had been made as to the floor heights on sections of the dwelling. After an inspection of the subject property, the Petitioner and Respondent agreed to the changes reflected on Respondent Exhibit 5.

### **Conclusion**

16. The Petitioner failed to provide sufficient evidence to establish a prima facie case for a value of \$135,000. However, the Respondent agreed that the current assessment was not correct. Based on undisputed testimony and documentary evidence presented by the Respondent, the total assessed value of the subject property, as of March 1, 2002, should be \$172,000.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the total assessment should be changed to \$172,000.

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.**