

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-5-00139  
**Petitioners:** Harlee & Ira J. Currie  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001-25-44-0319-0015  
**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. The Department of Local Government Finance (the "DLGF") determined the assessment for the subject property and notified the Petitioners on April 1, 2004.
2. The Petitioners filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated September 24, 2004.
4. Special Master Kathy J. Clark held the hearing in Crown Point on November 3, 2004.

### Facts

5. The subject property is located at 1052 Van Buren Street, Gary. The location is in Calumet Township.
6. The subject property is an unimproved residential lot measuring 30 feet by 121 feet.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed value of subject property as determined by the DLGF is \$3,600 (land only).
9. Assessed value requested by Petitioners is \$500 (land only).
10. The following persons were present and sworn as witnesses at the hearing:  
For Petitioners — Ira J. and Harlee Currie, Owners,  
For Respondent — Anthony Garrison, Assessor/Auditor.

## **Issues**

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
  - a) The lot is used only as a side lawn area. According to the city nothing can be built on any lot less than 50 feet wide. *I. Currie testimony; H. Currie testimony.*
  - b) The Petitioner does not believe the lot could be sold for the amount of the assessed value. *I. Currie testimony.*
12. Respondent's contention in support of the assessment:
  - a) The lot was given consideration for its current unimproved state.
  - b) A negative 20 percent influence factor has been applied. This adjustment is a standard amount used in the Lake County reassessment for unimproved parcels. *Garrison 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 538,
  - c) Petitioner offered no exhibits,  
Respondent Exhibit 1 - Form 139L,  
Respondent Exhibit 2 - Subject property record card,  
Board Exhibit A - Form 139L,  
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) 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) 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, 1119 (Ind. Tax Ct. 1998); *Herb v. State Bd. of Tax Comm’rs*, 656 N.E.2d 1230 (Ind. Tax Ct. 1998).
  - d) 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 Petitioners failed to provide evidence in support of their contentions. This conclusion was arrived at because:
- a) Petitioners testified that this lot is too narrow to build upon, but it is used as a side yard area for a dwelling they own on adjoining land. There is no probative evidence to prove that the current assessed value is too high and there is no probative evidence to prove what a lower value should be. Petitioners statements are conclusory in nature and of no value to the Board in its determination of this appeal. *Whitley Products*, 704 N.E.2d at 1119.
  - b) It is the burden of the Petitioner to establish a prima facie case proving that the current assessment is incorrect, and what the correct assessment should be. The Petitioners failed to do either. *Meridian Towers*, 805 N.E.2d at 478.

### **Conclusions**

16. The Petitioners failed to make 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 value 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.**