

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-028-02-1-5-00317  
**Petitioners:** James E & Mary Jane Sheeran Jr.  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 008-08-15-0095-0005  
**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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioners and the Respondent in December 2003. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$6,100 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 16, 2004.
3. The Board issued a notice of hearing to the parties on August 9, 2004.
4. A hearing was held on September 21, 2004 in Crown Point, Indiana before Special Master Peter Salvesson.

### Facts

5. The subject property is located at 620 West 57<sup>th</sup> Avenue, Merrillville, in Ross Township.
6. The subject property is a 0.096 acre improved lot.
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 \$ 6,100 Improvements \$ 0 Total \$6,100
9. Assessed Value requested by the Petitioners during hearing:  
Land \$ 1,000 Improvements \$ 0 Total \$1,000

10. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.
11. Persons sworn in at hearing:
  - For Petitioners: James E Sheeran, Jr., Owner
  - For Respondent: David M. Depp, Representing the DLGF

### **Issues**

12. Summary of Petitioners' contentions in support of alleged error in assessment:
  - a. The Petitioners' contention on the Form 139L for a lower value is based on the fact that the 30' wide lot is not a buildable lot. *Sheeran Testimony.*
  - b. The Petitioners contend that the subject property would not be sold separately from the adjacent residence. *Sheeran Testimony.*
13. Summary of Respondent's contentions in support of assessment:
  - a. The Respondent contends that the subject property was given a 20% adjustment for being a vacant parcel. *Depp Testimony.*
  - b. The Respondent contends that the subject property has value to the Petitioners due to its supplementary relationship to the adjacent residence owned by the Petitioners. *Depp Testimony.*
  - c. The Respondent contends that the subject property would be sold with the adjacent residence owned by the Petitioners and it is valued fairly and consistently. *Depp Testimony*

### **Record**

14. The official record for this matter is made up of the following:
  - a. The Petition and all subsequent pre-hearing submissions by either party.
  - b. The tape recording of the hearing labeled Lake Co. #132.
  - c. Exhibits:

Petitioners Exhibit A: Photo of subject property

Respondent Exhibit 1: Form 139L Petition

Respondent Exhibit 2: Subject property record card

Respondent Exhibit 3: Plat map

Board Exhibit A: Form 139 L Petition

- 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 at 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. Wash. 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 did not provide sufficient evidence to support their contention for a reduction in assessed value. This conclusion was arrived at because:
- a. The Petitioners' contend the subject property's value is affected by its lot width and submitted as their only evidence a photograph of the subject property. *Sheeran Testimony; Petitioner Exhibit A; Respondent Exhibits 2- 3.*
  - b. However, the Petitioners did not present any evidence to quantify the effect that the subject lot's width has on its market value-in-use. The Petitioners' mere assertion that the property is worth \$1,000 amounts to nothing more than a conclusory statement. Such statements do not constitute probative evidence. *See, SSK Co. v. Dep't of Local Gov't Finance*, 779 N.E.2d 125 (Ind. Tax Ct. 2002)(holding that the record was devoid of evidence concerning the appropriate adjustment to land value other than the taxpayer's conclusion that the land was entitled to a fifty percent (50%) negative influence factor).
  - c. Consequently, the Petitioners have not demonstrated either that the current assessment, which applies a negative twenty percent (20%) influence factor to the subject land, is incorrect, or what the correct assessment would be. As a result, the

Petitioners have failed to establish a prima facie case. *See Meridian Towers* 805 N.E.2d at 475.

**Conclusion**

17. The Petitioners did not make a prima facie case for a reduction in the assessed value of the property. The Board finds in favor of the Respondent.

**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: \_\_\_\_\_

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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.**