

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-012-02-1-5-00003  
**Petitioners:** John C. & Sharon L. Sanders  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 004-04-05-0043-0021  
**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 on November 24, 2003. The Department of Local Government Finance ("DLGF") determined that the Petitioner's property tax assessment for the subject property should remain at \$181,200 and notified the Petitioner March 23, 2004.
2. The Petitioners filed a Form 139L on April 6, 2004.
3. The Board issued a notice of hearing to the parties dated June 24, 2004.
4. A hearing was held on August 12, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is located at: 15823 Broadway, Lowell, Eagle Creek Township.
6. The subject property is a single-family home on 9.510 acres of land.
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:  
Land \$57,300 Improvements \$123,900 Total \$181,200
9. Assessed Value requested by Petitioners during hearing:  
Land \$34,742 Improvements \$123,900 Total \$158,642

10. Persons present and sworn at the hearing:

For Petitioners: Sharon L. Sanders

For Respondent: Sharon Elliott

**Issue**

11. Summary of Petitioners' contentions in support of alleged error in assessment:
- a) The Petitioner testified during hearing that 8.51 acres of the property had been incorrectly changed for this reassessment from agricultural to excess residential land. Neither the zoning nor the use of the land has changed. *Sanders testimony. Petitioners' Exhibit 3.*
  - b) The Petitioner testified the neighboring property was correctly changed back to agricultural status after their informal hearing but hers was not. *Sanders testimony. Petitioners' Exhibit 11.*
  - c) Other than the one acre home site the land is used to grow hay. *Sanders testimony. Petitioners' Exhibit 4.*
12. Summary of Respondent's contentions in support of assessment:
- a) The Respondent testified the land is determined to be residential if no farming is taking place as of the reassessment date. *Elliott testimony.*
  - b) After discussions at hearing and reviewing the Petitioners' photographs and exhibits, the Respondent agreed the excess land of 8.51 acres should be agricultural land as in previous assessment years. *Elliott testimony.*

**Record**

13. 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. #115.
  - c) Exhibits:
    - Petitioners' Exhibit 1: Notice of Final Assessment
    - Petitioners' Exhibit 2: Form 139L
    - Petitioners' Exhibit 3: Zoning Confirmation
    - Petitioners' Exhibit 4: Land Usage
    - Petitioners' Exhibit 5: Eagle Creek Plat Map
    - Petitioners' Exhibit 6: Subject's 1995 property record card (PRC)
    - Petitioners' Exhibit 7: Subject's 2002 PRC
    - Petitioners' Exhibit 8: 1995 PRC for 15825 Broadway
    - Petitioners' Exhibit 9: Original 2002 PRC for 15825 Broadway
    - Petitioners' Exhibit 10: Notice of Final Assessment for 15825 Broadway
    - Petitioners' Exhibit 11: Corrected 2002 PRC for 15825 Broadway
    - Petitioners' Exhibit 12: Property profile for 15899 Broadway

Petitioners' Exhibit 13: PRC for 15899 Broadway  
Petitioners' Exhibit 14: PRC for 004-04-05-0043-0020  
Petitioners' Exhibit 15: PRC for 004-04-05-0043-0024  
Petitioners' Exhibit 16: Property profile for 16015 Broadway  
Petitioners' Exhibit 17: Property profile for 16311 Broadway  
Petitioners' Exhibit 18: Property profile for 16941 Broadway  
Petitioners' Exhibit 19: Property profile for 17007 Broadway  
Petitioners' Exhibit 20: Property profile for 16878 Broadway  
Petitioners' Exhibit 21: Sanders' Reconciliation Tax Bill Paid  
Petitioners' Exhibit 22: Sanders' Tax Bill Without Homestead  
Petitioners' Exhibit 23: Sanders' Provisional Tax Bill  
Petitioners' Exhibit 24: Sanders' 2001-2002 Tax Bill  
Petitioners' Exhibit 25: Sanders' Yearly Taxes Paid (shows increases)  
Petitioners' Exhibit 26: Pictures of 15823 Broadway  
Petitioners' Exhibit 27: Pictures of surrounding areas

Respondent Exhibit 1: Form 139L Petition  
Respondent Exhibit 2: Subject PRC  
Respondent Exhibit 3: Photograph of subject home  
Respondent Exhibit 4: Top 20 Comparable properties with detailed property record cards and photographs for two of them  
Respondent Exhibit 5: Photographs of subject land  
Respondent Exhibit 6: Lake County Plan Commission's zoning record for subject property as agricultural land, dated 11/18/2003.  
Respondent Exhibit 7: PRC for 15825 Broadway  
Respondent Exhibit 8: Page from the manual describing homesite land definition

d) These Findings and Conclusions.

### Analysis

14. The most applicable governing cases, laws, and regulations are:

*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). 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.

*American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004)  
Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. 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 provided sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) The Petitioners presented numerous exhibits to illustrate the zoning was incorrectly changed from agricultural to excess residential acreage for this reassessment period although it remains an agricultural use.
  - b) The Petitioners presented a copy of the 1995 property record card for the subject property (*Petitioners' Exhibit #9*) that showed one acre as residential land and the remaining 8.510 acres assessed as agricultural "MAB2" land.
  - c) The Petitioners' exhibits clearly showed the land, other than the one-acre homesite, is grown as hay and cut every year. Petitioners' Exhibit #7 is an annual renewable contract dated May 1, 2002 between TKI Ranch and the Petitioners for an annual lease to cut and remove 7 acres of hay. *Petitioners' Ex. 7.*
  - d) Both the Petitioners and the Respondent each had an identical exhibit from the Lake County Land Commission stating the property is zoned agricultural. The document is dated November 18, 2003 and is signed by the Lake County Planner. *Petitioners' Ex. 3; Resp't Ex. 6.*
  - e) After discussion with the Petitioner and review of the exhibits and photographs of the excess land, the Respondent agreed the land was incorrectly assessed as excess residential property. *Elliott testimony.*
  - f) The Respondent testified the field data collection team most likely visited the property after the hay had been cut and thus incorrectly determined it to be grass. *Elliott testimony.*

### **Conclusion**

16. The Petitioners made a prima facie case that the 8.51 acres classified as excess residential land are used as agricultural and should be assessed as agricultural land. The Respondent conceded this point. The Board finds that the assessment of the 8.51 acres shall be changed.

### **Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment of the 8.51 acres be changed to agricultural.

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.**