

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition:** 45-016-02-1-5-00143  
**Petitioners:** Joseph & Dolores Hegyi  
**Respondent:** Department of Local Government Finance  
**Parcel:** 006-27-17-0066-0012  
**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 \$114,300 and notified the Petitioners on March 26, 2004.
2. The Petitioners filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated October 27, 2004.
4. Special Master Kathy J. Clark held the hearing in Crown Point on December 7, 2004.

### Facts

5. The subject property is located at 855 State Street, Hobart. The location is in Hobart Township.
6. The subject property is of a one story, brick and frame, residential dwelling.
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 \$27,100    Improvements \$87,200    Total \$114,300.
9. Petitioners requested a total assessed value of \$88,000.
10. Persons sworn as witnesses at the hearing:  
Joseph and Dolores Hegyi, owners,  
Stephen H. Yohler, assessor/auditor.

## Issues

11. Summary of Petitioners' contentions in support of an error in the assessment:
  - a) The bathrooms have outdated fixtures, new storm windows are needed, and the exterior needs to be painted. Without investing in these items the property would have a lower value in the market place than its current assessment of \$114,300. *Petitioner Exhibit 3; D. Hegyi testimony.*
  - b) Mr. Ron Schwuchow completed an appraisal on December 6, 2004, for the purposes of this appeal. Using both the cost approach and the market approach, it establishes the value as of December 30, 1999, to be \$88,000. *Petitioner Exhibit 5; D. Hegyi testimony.*
12. The Respondent submitted evidence regarding properties that it considered to be comparables and requested that said evidence be accepted as proof that the assessment is correct. *Yohler testimony; Respondent Exhibits 1-5.*

## 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 926,
  - c) Exhibits:
    - Petitioner Exhibit 1 – Form 139L, page 1,
    - Petitioner Exhibit 2 – Form 139L, pages 2,3,
    - Petitioner Exhibit 3 – Photographs to show condition,
    - Petitioner Exhibit 4 – Tax comparison,
    - Petitioner Exhibit 5 – Appraisal by Mr. Ron Schwuchow for an “as is” date of December 30, 1999,
    - Respondent Exhibit 1 – Form 139L,
    - Respondent Exhibit 2 – Subject property record card,
    - Respondent Exhibit 3 – Subject photograph,
    - Respondent Exhibit 4 – Comparable analysis sheet,
    - Respondent Exhibit 5 – Property record cards and photographs of comparables,
    - 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 governing cases are:
  - a) A Petitioner seeking review of a determination of the DLGF 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 Petitioners established a prima facie case that Respondent failed to rebut or impeach. This conclusion was arrived at because:
  - a) The appraisal submitted by the Petitioners states that the value for the subject property as of December 30, 1999, is \$88,000. The appraisal was prepared by a licensed, certified appraiser. As such, the appraisal is relevant, probative evidence establishing that the current value of \$114,300 is incorrect and that \$88,000 is the correct market value. *Petitioner Exhibit 5*.
  - b) The burden shifted to the Respondent to offer evidence to rebut or impeach the appraisal. The Respondent failed to do so because it did not prove that the comparables it offered actually are comparable to the subject property. Conclusory opinions about comparability are not probative or relevant to determination of the market value of the subject property. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005). Specific reasons must be provided as to why a property is comparable. *Id.*; *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003).

## Conclusion

16. The Petitioners presented sufficient evidence to establish a prima facie case. The Respondent failed to rebut or impeach the evidence. The Board finds in favor of the Petitioners.

## Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to a total of \$88,000.

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.** You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at [http://www.in.gov/judiciary/rules/trial\\_proc/index.html](http://www.in.gov/judiciary/rules/trial_proc/index.html). The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.