

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-037-02-1-5-00089  
**Petitioners:** Kraig & Karen Maatman  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 010100101840002  
**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 in Lake County, Indiana. The Department of Local Government Finance (the "DLGF") determined that the Petitioners' property tax assessment for the subject property was \$408,200 and notified the Petitioners on March 23, 2004.
2. The Petitioners filed a Form 139L on April 23, 2004.
3. The Board issued a notice of hearing to the parties on November 16, 2004.
4. A hearing was held on December 16, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is a single family residence located at 9815 - 216<sup>th</sup> Avenue, Lowell in West Creek Township.
6. The Special Master did not conduct an on-site visit of the property.
7. Assessed Value of the subject property as determined by the DLGF:  
Land \$65,000            Improvements \$343,200            Total \$408,200
8. Assessed Value requested by the Petitioners on the Form 139L petition:  
The Petitioners did not answer this question.
9. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

10. Persons sworn in at hearing:

For Petitioners: Kraig Maatman, Owner  
Karen Maatman, Owner

For Respondent: Phillip Raskosky, DLGF

**Issue**

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:

- a) The land [neighborhood] factor of 1.23 is too high. Not a ½ mile down the road, across US 41, the factor is 1.07. No one has been able to justify the neighborhood factor. *Kraig Maatman testimony.*
- b) The land should be assessed as A-1 [agricultural]. The land is shown as R-1 [residential] because it was subdivided in 1997. *Kraig Maatman testimony.*
- c) The back acreage is just sandy farm field. It was not farmed this year. It was farmed in 2002, probably with straw or wheat. The Petitioners stated they presented pictures at the initial hearing which showed crops being grown. *Kraig Maatman testimony; Karen Maatman testimony.*
- d) The silo is an obsolete structure. *Kraig Maatman testimony.*
- e) The land is DNR restricted; the subject property is the last lot on the street that can be built on. *Kraig Maatman testimony.*

12. Summary of Respondent's contentions in support of assessment:

- a) The Respondent noted the Petitioners presented virtually no evidence to support their contentions. *Raskosky testimony.*
- b) The Petitioners presented no evidence to show the subject property was actually being farmed or how much was being farmed. Being zoned as agricultural is not enough; the property must be farmed. *Raskosky testimony.*
- c) The silo is assessed in very poor condition. *Raskosky testimony.*
- d) The Petitioners presented no documentation from DNR to show the restrictions. *Raskosky 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 Co. #1174.
- c) Exhibits:
  - The Petitioners presented no exhibits
  
  - Respondent Exhibit 1: Form 139L Petition
  - Respondent Exhibit 2: Subject Property Record Card (PRC)
  - Respondent Exhibit 3: Subject Property Photos
  - Respondent Exhibit 4: Aerial photo
  
  - Board Exhibit A: Form 139L Petition
  - Board Exhibit B: Notice of Hearing
  - Board Exhibit C: Hearing 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 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 Township 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 Township 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 did not provide sufficient testimony to support their contentions. This conclusion was arrived at because:
  - a) The Petitioners contend the assessment of the subject property is too high. The Petitioners pointed to several factors to support their contention.

- b) The Petitioners stated the neighborhood factor of 1.23 is too high. However, the Petitioners did not explain why the 1.23 factor was too high, nor did they state what the correct neighborhood factor would be.
- c) The Petitioners contend a portion of the land should be assessed as agricultural. As the Respondent noted, being zoned as agricultural is not enough. The Petitioners must show the land is used for an agricultural purpose. The Petitioners stated the land was being farmed in 2002. However, the Petitioners did not present any evidence to show how much of the land was being farmed.
- d) The Petitioners stated the silo is obsolete. The Petitioners provided no evidence to show the assessment of the silo is incorrect, nor did the Petitioners show what the correct assessment would be.
- e) The Petitioners stated that their land is restricted by the DNR. The Petitioners provided no evidence to show how their land was restricted, nor did the Petitioners explain how the DNR restrictions impacted the value of the land.
- f) The only evidence presented by the Petitioners was their testimony regarding certain factors of the assessment. However, the Petitioners did not attempt to quantify the effect of these factors on the market value-in-use of the subject property. Thus, the Petitioners' assertions amount to little more than conclusory statements. Such statements, unsupported by factual evidence, are not sufficient to establish an error in assessment. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1120 (Ind. Tax Ct. 1998).
- g) The Petitioners have the burden of proving the assessment is incorrect and what the correct assessment would be. The Petitioners have not met their burden.

## Conclusion

16. The Petitioners failed to make a prima facie case. 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: **October 24, 2005**

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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>>.