

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition:** 45-026-02-1-5-01101  
**Petitioners:** Kurt & Joyce Koch  
**Respondent:** Department of Local Government Finance  
**Parcel:** 007-26-36-0300-0001  
**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 on December 9, 2003. The Department of Local Government Finance (the DLGF) determined that the assessment for the subject property is \$181,400 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 28, 2004.
3. The Board issued a notice of hearing to the parties dated October 8, 2004.
4. Special Master Dalene McMillen held the hearing in Crown Point on November 16, 2004.

### Facts

5. The subject property is located at 7320 Hohman Avenue in Hammond.
6. The subject property is a 2,432 square foot dwelling located on a 10,290 square foot lot.<sup>1</sup>
7. The Special Master did not conduct an on-site inspection of the property.
8. The assessed value of the subject property as determined by the DLGF is:  
Land \$43,800            Improvements \$137,600            Total \$181,400.
9. The assessed value of the property as requested by the Petitioners:  
Land: \$30,000            Improvements: \$120,000            Total: \$150,000.

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<sup>1</sup> The adjoining parcel, also owned by the Petitioners, is being appealed in a separate petition, # 45-026-02-1-5-01100.

10. The Petitioners were represented at the hearing by Sophia J. Arshad, Attorney at Law.
11. The following persons were sworn as witnesses at the hearing:  
Kurt and Joyce Koch, Owners,  
Steven McKinney, Assessor/Auditor,  
Lorraine Harmon, Assistant Director Assessment Division.

### **Issue**

12. Summary of Petitioners' contentions in support of alleged error in assessment:
  - a. The assessed value exceeds the 1999 market value of the subject property.
  - b. An appraisal established the property value at \$175,000 as of April 19, 2004. *Petitioners Exhibit 6.*
  - c. Petitioners also presented an appraisal dated November 4, 2004. This appraisal was trended to show the market value of the property was \$160,000 as of November 1, 1999. *Petitioners Exhibit 8.* Petitioners testified that the only changes made to the subject dwelling after 1999 were a bathroom and bedroom added to the dwelling in 2000 and 2001. *K. Koch testimony.* The appraisal also indicated a fireplace was not included in the appraised value. "Improvements made, as reported by the homeowner after November, 1999, include an upper level bathroom and fireplace that was not included in this estimate of market value for 1999." *Petitioners Exhibit 8.*
  - d. Petitioners contend that the dwelling has only three bedrooms, the basement is unfinished, the gazebo is of no value, and the detached patio listed on the property record card is just a landing. *Petitioners Exhibit 3; J. Koch testimony.*
13. Summary of Respondent's contentions in support of assessment:
  - a. Three comparable properties demonstrate that the subject property is valued fairly and consistently for the subject neighborhood. The three comparable properties sold in 1999 and 2001 for \$162,000, \$168,000 and \$169,000. The comparable properties' price per square foot ranges from \$72.12 to \$83.32, while the subject is assessed at \$74.59 per square foot. *Respondent Exhibits 4, 5.*
  - b. The comparable properties' assessed values range from \$131,500 to \$163,000. The subject is assessed at \$181,400. The sales prices of the comparable homes, adjusted to the valuation date of January 1, 1999, indicated a value range of \$151,492 to \$165,009. The comparable properties are slightly different in age, square footage and style from the subject. *Id.*

- c. The appraisal prepared by Capital Appraisal Company, Inc. as of November 1, 1999, omitted features from the dwelling that were present on the 2002 tax lien date. *Harmon testimony.*
- d. The appraisal from Thomas C. Newton established the value of the property for 2004. It is irrelevant because it does not establish the 1999 market value for the subject property for the tax lien date of March 1, 2002. *Id.*

### Record

14. 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. 643,
  - c. Petitioners Exhibit 1: A copy of the Form 139L,  
 Petitioners Exhibit 2: A copy of the Petitioners' 2002 property record card,  
 Petitioners Exhibit 3: Summary of Petitioners' arguments,  
 Petitioners Exhibit 4: Affidavit of Thomas Newton, dated November 8, 2004,  
 Petitioners Exhibit 5: Affidavit of Thomas C. Newton, dated November 8, 2004,  
 Petitioners Exhibit 6: Appraisal report prepared by Newton and Associates, Inc.,  
 dated April 19, 2004,  
 Petitioners Exhibit 7: Affidavit of Marlon J. Veldkamp, dated November 8, 2004,  
 Petitioners Exhibit 8: Appraisal report from Capital Appraisal Company, Inc.,  
 Respondent Exhibit 1: A copy of the Form 139L,  
 Respondent Exhibit 2: A copy of the Petitioners' 2002 property record card,  
 Respondent Exhibit 3: A photograph of the subject property,  
 Respondent Exhibit 4: A worksheet of the top 20 comparables and statistics,  
 Respondent Exhibit 5: Property record cards and photographs of the Torres,  
 Froehlke, and Dombrowski comparables,  
 Board Exhibit A: Form 139L,  
 Board Exhibit B: Notice of Hearing on Petition,  
 Board Exhibit C: Hearing sign-in sheet,
  - 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 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.

16. There is sufficient evidence to support the Petitioners’ contentions that the assessment is incorrect. This conclusion was arrived at because:

- a. An appraisal performed in accordance with generally recognized appraisal principles is sufficient to establish a prima facie case. *Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003).
- b. Indiana’s assessment regulations provide that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005); 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on an appraisal to establish the market value-in-use of a property must provide some explanation about how the appraised value demonstrates or is relevant to the property’s value as of January 1, 1999. *Id.*
- c. Petitioners presented an appraisal that concluded the value of the property was \$175,000 as of April 19, 2004. The Newton appraisal valued the property more than five years after the valuation date. Petitioners did not explain how this value demonstrates, or is relevant to, the property’s value as of January 1, 1999. Accordingly, this appraisal is not probative evidence of error in the assessment. *Id.*
- d. Petitioners also presented an appraisal from Capital Appraisal that concluded the value of the property, using the sales comparison approach, was \$160,000 as of November 1, 1999. That appraisal further concluded, using the cost approach, that the value was \$162,979. Although the general methodology used to prepare the appraisal was not questioned, Respondent pointed out that the appraisal omitted several features of the property that existed on March 1, 2002. For example, undisputed testimony indicated Petitioners added a master bathroom suite at the end of 2000 and a master bedroom suite in 2001. The appraisal further stated: “Improvements made, as reported by the homeowner after

November, 1999, include an upper level bathroom and fireplace that was not included in this estimate of market value for 1999.” The record is therefore clear that this appraisal does not include all features present in the property on the assessment date. Accordingly, the appraisal of \$160,000 cannot be regarded as probative evidence of the market value of the property for the 2002 reassessment.

- e. Respondent submitted evidence of three purported comparable properties that sold in 1999 and 2001 for \$162,000 to \$169,000. Respondent trended these amounts back to the valuation date, January 1, 1999, resulting in adjusted values ranging from \$151,492 to \$165,009. Respondent failed to explain the characteristics of the subject property and compare them to the purported comparables. Respondent did not explain how any differences affected the relevant market values of those properties. Therefore, under *Long* those comparables would not have probative value in supporting the current assessment. Nevertheless, Respondent's evidence has some weight as an admission that the current assessment is too high. Respondent's comparables prove Petitioners' contention that the current assessed value of the subject property, \$181,400, is overstated. By offering this evidence, Respondent effectively admitted that the value of the property should not be more than \$165,000.
- f. The evidence presented by each party demonstrates the current assessment is excessive and establishes similar proposed new values. The Board therefore concludes the total value of the parcel should be \$165,000.

### **Conclusion**

- 17. The Board finds that the total assessed value of the subject property should be changed to \$165,000.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

ISSUED: \_\_\_\_\_

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Commissioner,  
Indiana Board of Tax Review

- 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>.