

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition:** 45-026-02-1-5-00554  
**Petitioners:** Lorin & Helen Brown  
**Respondent:** Department of Local Government Finance  
**Parcel:** 007-18-28-0562-0015  
**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 January 9, 2004. The Department of Local Government Finance (the DLGF) determined that the property tax assessment for the subject property is \$926,200 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 20, 2004.
3. The Board issued a notice of hearing to the parties dated September 20, 2004.
4. Special Master Dalene McMillen held the hearing in Crown Point on October 20, 2004.

### Facts

5. The subject property is located at 10200 Cherrywood Lane in Munster.
6. The subject property is a two-story brick and stucco dwelling located on a 121' x 132' (15,972 sq. ft.) lot.
7. The Special Master did not conduct an on-site visit of the property.
8. The assessed value of the subject property as determined by the DLGF is:  
Land \$151,700                      Improvements \$774,500.
9. The assessed value as requested by the Petitioners is:  
Land \$90,000                      Improvements \$774,500.

10. The following persons were sworn as witnesses at the hearing:  
Helen Brown, owner,  
Sharon S. Elliott, staff appraiser, Cole-Layer-Trumble.

### **Issues**

11. Summary of Petitioners' contentions in support of alleged error in assessment:
- a. The assessed value exceeds the market value of the subject land compared to similar lots in the same area. The subject property is not located on a pond, does not have a pond view and does not connect to a park. *Petitioner Exhibit 5; Brown testimony.*
  - b. The five comparables are all located in White Oak Estates. The comparable lots are designated estate lots on cul-de-sacs similar to the subject. These comparables are larger, but they are assessed from \$59,100 to \$82,300. *Petitioner Exhibits 8, 9; Brown testimony.*
  - c. Two sales, dated March 28, 1995 and June 23, 1994, for White Oaks Estates show vacant lots sold from \$52,900 up to \$84,600. These prices demonstrate that the subject lot is over assessed at \$151,700. *Petitioner Exhibit 10; Brown testimony.*
  - d. The subject area is not as affluent as the Briar-Ridge subdivision. Nevertheless, in Briar-Ridge the lots are assessed for less. The assessment reports for the four properties on Muirfield Drive show that land value for these properties is in a range from \$12,200 to \$102,400. *Petitioner Exhibit 11; Brown testimony.*
  - e. The Petitioner testified the subject dwelling assessment is fair and accurate, but the house does not contain a formal dining room. *Petitioner Exhibit 6, 7; Brown testimony.*
12. Summary of Respondent's contentions in support of assessment:
- a. The subject property is correctly assessed at \$151,700 for the land and \$774,500 for the improvements for a total assessed value of \$926,200. *Respondent Exhibit 2; Elliott testimony.*
  - b. The land is valued with the same base rate as the adjoining lots in the designated neighborhood and has received a negative influence factor of 12 percent due to excessive frontage. *Respondent Exhibit 2; Elliott testimony.*
  - c. The comparable lot in the same neighborhood demonstrates the subject land is valued fairly and consistently. This comparable property sold for \$750,000 in 1999. The comparable house and lot are both smaller than the subject. The land value for that property is \$153,200. *Respondent Exhibit 4.* Respondent claims

this comparable demonstrates the Petitioners' assessment is "within range."  
*Elliott testimony.*

- d. The comparable properties offered by Petitioner are not located in the same designated neighborhood as the subject property. They are not similar in size and the land base rate used for them is lower than the land base rate for the subject property. *Respondent Exhibits 5, 6; Elliott 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. 343,
- c. Exhibits:
  - Petitioner Exhibit 1 – Form 139L, petition 45-026-02-1-5-00554,
  - Petitioner Exhibit 2 – Form 139L, petition 45-026-02-1-5-00555,
  - Petitioner Exhibit 3 – Notice of Hearing for petition 45-026-02-1-5-00554,
  - Petitioner Exhibit 4 – Notice of Hearing for petition 45-026-02-1-5-00555,
  - Petitioner Exhibit 5 – A summary of argument presented at the informal hearing,
  - Petitioner Exhibit 6 – A copy of the subject property record card showing the dwelling sketch and information sections,
  - Petitioner Exhibit 7 – A copy of the architectural drawing showing a portion of the floor plan for the subject dwelling,
  - Petitioner Exhibit 8 – Assessment information for other properties identified as the Stepanovic, Silverman, Millies and Ingoglia properties,
  - Petitioner Exhibit 9 – Plat map for White Oak Estates subdivision,
  - Petitioner Exhibit 10 – Price list with lot sizes for White Oak Estates Phase I and III,
  - Petitioner Exhibit 11 – Assessment information for properties offered as comparable properties located in Briar-Ridge subdivision identified as the Williamson and Powers properties,
  - Petitioner Exhibit 12 – Notice of Assessment of Land and Structures – Form 11 for parcel 007182805620015,
  - Petitioner Exhibit 13 – Notice of Assessment of Land and Structures – Form 11 for parcel 007182805620016,
  - Petitioner Exhibit 14 – Notice of Final Assessment for parcel 007182805620015,
  - Petitioner Exhibit 15 – Notice of Final Assessment for parcel 007182805620016,
  - Respondent Exhibit 1 – Form 139L,
  - Respondent Exhibit 2 – A copy of the subject property record card,
  - Respondent Exhibit 3 – Two photographs of the subject property,
  - Respondent Exhibit 4 – Top 20 comparables and statistics with a property record card and photograph for the Davis property,

Respondent Exhibit 5 – Property record cards for the properties offered as comparable by Petitioner and identified as the Ingoglia, Millies, Stepanovic, and Silverman properties,

Respondent Exhibit 6 – Property record cards for the Williamson and Powers properties, a map with neighborhood numbers and the Residential Neighborhood Valuation Form for neighborhood 01838 (the cul-de-sac of Cherrywood Lane),

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

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 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 did not establish a prima facie case to support their contentions regarding land value. This conclusion was arrived at because:
- a. The map of White Oak Estates shows that “park” and “landscaped lake areas” that could distinguish this particular block from the balance of that subdivision predominantly surround the properties located on the block of Cherrywood Lane where the subject property is located. This small area is identified as neighborhood 01838. Petitioners primarily take issue with the designation of that small area as a separate neighborhood with its own basis for land values (base rate

\$1,500 per front foot). The evidence is clear that the designated base rate was used for the properties located in that neighborhood.

- b. Petitioners submitted assessed values of other properties located in White Oak Estates and the Briar-Ridge subdivision to show a disparity in assessed land value. The alleged comparable lots are assessed at \$12,200 to \$102,400. Although some of those properties are also from White Oak Estates, none of Petitioners' comparables are from their designated neighborhood. Petitioners noted that three of the other lots are larger than their lot, but the assessments are much less. Without more complete information (size, shape, topography, etc.), it is impossible to meaningfully compare properties that are not located in the same neighborhood or draw any conclusion about their comparative market values.
  - c. Petitioners did not establish that their comparables were actually comparable to the subject property. The Petitioners' merely claimed it to be so. The Petitioners' conclusory statement that something is comparable does not constitute probative evidence. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005); *Blackbird Farms Apts., LP v. Dept. of Local Gov't Fin.*, 765 N.E.2d 711 (Ind. Tax Ct. 2002); *Whitley Prods., Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
  - d. Assessed values for the 2002 general reassessment must reflect market values as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 4; *Long*, 821 N.E.2d at 471. Consequently, the evidence must provide some explanation about how it demonstrates values as of that date. Where there is no such explanation, the evidence has no probative value. *Id.*
  - e. Petitioners submitted vacant land sales in White Oak Estates in attempt to prove the land value is over-stated. The sales prices ranged from \$52,900 to \$84,600 in 1994 and 1995. Those sales are not probative in this case because Petitioners failed to establish the relevance or effect, if any, these sales have on the market value of the subject land as of January 1, 1999. *Id.*
16. There is sufficient evidence to support the Petitioners' contention about the number of rooms. At the hearing, the parties agreed that the notation of a formal living room should be removed from the room count in the information section of the property record card. Additionally, the parties acknowledged that eliminating a dining room has no affect on the assessment. The assessed value will not change as a result of the agreement that there is no separate dining room in this house.

### **Conclusions**

17. The Petitioners failed to make a prima facie case regarding the alleged land valuation error. The Board finds in favor of the Respondent.

18. The agreement between the parties is a decision among the parties and without dispute. The Board will accept the agreement that the formal living room be removed from the room count on the property record card. Additionally, the parties agreed that the change in room count does not affect the overall assessed value established for the subject property.

### **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. 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>.