

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition:** 45-001-02-1-5-01028  
**Petitioner:** Mertha Someson  
**Respondent:** Department of Local Government Finance  
**Parcel:** 001-25-46-0089-0021  
**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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held on February 9, 2004. The Department of Local Government Finance (the DLGF) determined that the property tax assessment for the subject property is \$93,100 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 22, 2004.
3. The Board issued a notice of hearing to the parties on October 27, 2004.
4. Special Master Peter Salveson held the hearing in Crown Point on December 1, 2004.

### Facts

5. The subject property is located at 8211 Locust Avenue, Gary. The location is in Calumet Township.
6. The subject property is single-family home on 0.158 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed value of the subject property as determined by the DLGF:  
Land \$20,700      Improvements \$72,400      Total \$93,100.
9. Assessed value requested by the Petitioner on the Form 139L petition:  
Land \$15,000      Improvements \$50,000      Total \$65,000.

10. Persons sworn in at hearing:  
For Petitioner — Mertha Someson, owner,  
For Respondent — Joseph Lukomski, Jr., assessor/auditor.

### **Issue**

11. Summary of Petitioner’s contentions in support of alleged error in assessment:
- a. The Petitioner’s contention on the Form 139L is based on sales of comparable homes in her neighborhood. These tract homes (“Hoosier Homes”) are of the same general design and were built by the same builder, Durkin. They were selling in the range of \$65,000 to \$78,000 in 1999. The condition of the subject property is inferior to the properties presented as comparables. *Someson testimony; Petitioner Exhibits 4, 5, 7.*
  - b. The data shows that Petitioner’s comparables are the same age, style, and square footage as her home. *Someson testimony; Petitioner Exhibit 4.*
  - c. The Respondent’s comparables are not Hoosier Homes. They are not comparable to the subject property. *Respondent Exhibits 4, 5.*
12. Summary of Respondent’s contentions in support of assessment:
- a. The assessment was determined using the State’s assessment guidelines. *Lukomski testimony.*
  - b. The Respondent’s comparable improved property sales support the current valuation. *Lukomski testimony; Respondent Exhibit 4.*

### **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. 889,
  - c. Petitioner Exhibit 1: Form 139L Petition,  
Petitioner Exhibit 2: New Reassessment Notice,  
Petitioner Exhibit 3: Notice of Final Assessment,  
Petitioner Exhibit 4: Real Estate Sales Reports,  
Petitioner Exhibit 5: Photographs of subject property,  
Petitioner Exhibit 6: Hearing Notice of Petition,  
Petitioner Exhibit 7: Petitioner’s arguments,  
Respondent Exhibit 1: Form 139L Petition,  
Respondent Exhibit 2: Subject property record card,  
Respondent Exhibit 3: Subject photograph,

Respondent Exhibit 4: Comparables sheet,  
Respondent Exhibit 5: Comparables' property record cards and photographs,  
Board Exhibit A: Form 139L Petition,  
Board Exhibit B: Notice of Hearing,  
Board Exhibit C: Sign in Sheet,

d. These Findings and Conclusions

### Analysis

14. The most applicable governing cases and regulations 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.
  - d. There is a presumption that the value determined according to rules prescribed in the manual and guidelines is the true tax value of the subject property. Nevertheless, a taxpayer may offer evidence relevant to the fair market value-in-use of the property to rebut that presumption and to establish the actual true tax value of the property as long as such information is consistent with the definition of true tax value provided in the manual. That evidence may include actual construction costs, sales information regarding the subject or comparable properties, appraisals that are relevant to the market value-in-use of the property, and any other information compiled in accordance with generally accepted appraisal principles. 2002 REAL PROPERTY ASSESSMENT MANUAL at 5 (incorporated by reference at 50 IAC 2.3-1-2).
  - e. Condition is rating assigned to each structure that reflects its effective age in the market. It is determined by inspection of the structure and by relating the structure to comparable structures within the subject's neighborhood. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002—VERSION A, app. B at 5.

16. Petitioner provided sufficient evidence to support her contention that the current assessed value must be reduced to achieve a market value assessment. This conclusion was arrived at because:
- a. Petitioner provided sales information for three comparable properties and requested the subject assessment be reduced to \$65,000.
  - b. Petitioner proved a high degree of comparability between her property and her three comparables. All three of her comparable sales are located within three blocks of the subject property. They are the exact same size as the subject property and are of similar design and quality. The same builder built them all. They have the same amenities and sold within 3 to 9 months of the valuation date of January 1, 1999. Those properties had sale prices of \$65,000, \$78,000, and \$78,800. Petitioner testified that the comparable located at 7701 Locust in Gary is the most comparable property. It sold for \$65,000 in May 1999. The testimony that 7701 is the most comparable, however, is conclusory and of no value in proving that specific market value should be the one used from the established range. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005); *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
  - c. The Petitioner provided photographic evidence related to the condition of the subject property, which is currently assessed as being in fair condition. Petitioner failed to show that this condition is incorrect or how it related to the value of her comparable sales. Accordingly, Petitioner has not proved how the condition of her property should be incorporated into an analysis of its market value based on her comparables.
  - d. In support of the current assessment, Respondent presented three allegedly comparable sales. Respondent opined the comparables are in the same area and that they are approximately the same age, condition, and grade as the subject. Respondent offered only copies of the property record cards and photographs of its comparables to substantiate that opinion. This is not sufficient to prove comparability. *Id.* Furthermore, even that evidence indicates significant differences. For example, one of the comparable property record cards has an address in Dyer with a different zip code. For another example, another property record card indicates average, rather than fair condition. Respondent provided no probative evidence or explanation with regard to these differences or how they relate to the value of the subject property. Respondent failed to establish the relevance of its comparables. *Long*, 821 N.E.2d at 470.
  - e. Petitioner proved several specific ways in which her comparables are similar to her property. While Respondent did not specifically agree that those properties were comparable, Respondent failed to rebut or impeach that evidence of comparability. On the other hand, Respondent offered its own comparables, but provided little, if any, probative evidence to establish how they compare to the subject property. Respondent's conclusory evidence and list of what it considers the "Top 3 Comparables" has no probative value or evidentiary weight. *Id.*

- f. Petitioner's comparables establish a narrow price range, but Petitioner did not establish which comparable sale was the closest in value to her house. Petitioner did not offer any analysis of the various small ways her property and her comparables differ. The fact that Petitioner did not prove a single, exact market value figure, however, does not mean that she is entitled to no relief. Based upon the evidence of this case, a simple average of the three comparable sale prices appears to be the best indication of market value. Thus, the best indication of market value in this case is \$73,900.

### **Conclusion**

17. The Petitioner made a prima facie case for a reduction in the assessed value of the property. The Respondent's evidence did not rebut the Petitioner's evidence. The Board finds in favor of the Petitioner.

### **Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should be reduced to \$73,900.

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.**