

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-00009  
**Petitioner:** Michael E. Abbott for Judith Abbott Trust  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 007-18-28-0067-0023  
**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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioner and the Respondent. The Department of Local Government Finance (the "DLGF") determined that the Petitioner's property tax assessment for the subject property was \$143,500.
2. The Petitioner filed a Form 139L on April 14, 2004.
3. The Board issued a notice of hearing to the parties dated June 1, 2004.
4. A hearing was held on July 8, 2004 in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is located at: 8205 Meadowlane, Munster, in North Township.
6. The subject property is a 0.176-acre parcel improved with a single-family two story brick dwelling. The house has 3 bedrooms, 1½ baths, and an attached garage.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of subject property as determined by the DLGF:  
Land \$28,500 Improvements \$115,000 Total \$143,500

9. Assessed Value requested by Petitioner:  
Land \$22,000 Improvements \$108,000 Total \$130,000

10. The following persons were present at the hearing:

For Petitioner: Michael E. Abbott  
For Respondent: Cathi Gould, staff appraiser  
David Johns, Cole-Layer-Trumble staff

11. Persons sworn in at hearing:

For Petitioner: Michael E. Abbott  
For Respondent: Cathi Gould

### **Issue**

12. Summary of Petitioner's contentions in support of an alleged error in assessment:

- a) The Petitioner's contention on the Form 139L was based upon a ratio comparison between the appraised values of three comparables used for the subject property's 1995 financing appraisal and the current assessed values for each of those properties.
- b) The Petitioner then compared those ratios to the ratio of the 1995 financing appraisal value of the subject property to its 2002 assessed value.

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

- a) The Respondent presented an analysis of three comparable properties and provided the property record cards for each to support the subject property's value as assessed.
- b) The Respondent also presented information regarding the assessment of approximately twenty other properties that it contended were similar to the subject property to support the assessment.
- c) The Respondent presented a trended value of the actual 1995 purchase price of \$129,000 to support the current assessment.
- d) The Respondent contended the property is assessed in line with other properties in the area, the Petitioner's evidence did not prove to the contrary, and no change in the assessment is warranted.

### **Record**

14. The official record for this matter is made up of the following:

- a) The Petition and all subsequent pre-hearing submissions by either party.
- b) The tape recording of the hearing labeled Lake Co. #210.
- c) Exhibits:  
Petitioner Exhibit C1: Board Notice of Hearing.

Petitioner Exhibits C2-4: Form 139L Petition.  
Petitioner Exhibit C5: Notice of Assessment of Land and Structures, Form 11.  
Petitioner Exhibit C6: Notice of Final Assessment.  
Petitioner Exhibit C7: Valuation Record.  
Petitioner Exhibit C8: Improvement Data and Computations Form.  
Petitioner Exhibit C9: Summary of Petitioner's Arguments.  
Petitioner Exhibits C10-16: Former Assessment of Property.  
Petitioner Exhibits C17-19: Written Outline of Evidence Explaining it's  
Relevance (Copies of reassessment values for homes that are pertinent to  
Petitioner's arguments).

Respondent Exhibit 1: Form 139L Petition.  
Respondent Exhibit 2: Subject's property record card.  
Respondent Exhibit 3: Photograph of subject property.  
Respondent Exhibit 4: Comparable Properties Summary with attached list of  
twenty comparable properties.  
Respondent Exhibits 5,7: Comparable property record cards.  
Respondent Exhibits 6,8: Comparable property photographs.  
Respondent Exhibit 9: Time adjustment calculation for subject's 1995 sale price.

d) These Findings and Conclusions.

### Analysis

15. The most applicable governing law is:
- a) A Petitioner seeking review of a determination of the DLGF has the burden to establish a prima facie case proving, by a preponderance of the evidence, 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. Wash. 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. The Petitioner did not provide sufficient evidence to support the Petitioner's contentions. This conclusion was arrived at because:
- a) The Petitioner's argument was based on the appraised values of comparable properties, using information from the 1995 financing appraisal for the subject property. *Petitioner's Exhibits C9 and C12.*
  - b) The Petitioner determined the 2002 assessed values of the three comparable properties that were included in the 1995 appraisal. The Petitioner concluded that the 2002 assessed value of only one of the three comparable properties exceeded its 1995 appraisal value, in the amount of \$4,700. In contrast, the Petitioner's 2002 assessed value is \$14,500 greater than its 1995 appraised value. The Petitioner therefore concluded the assessment is incorrect.
  - c) However, the Petitioner's methodology is flawed.
  - d) The 1995 appraised values used by the Petitioner were actually "Adjusted Sales Price of Comparable," wherein the appraiser had made adjustments to the 1994 sales prices of three other properties in order to determine a reasonable market value of the subject property. An appraiser typically uses this method to adjust sale prices for other homes to a subject property as if they all had identical features.
  - e) The adjustments to each 1994 comparable property sale price included site and living area variances, condition, garage size, and whether each had fencing. For example, comparable property #1 had a total positive adjustment of \$15,700 made to the sale price to arrive at the adjusted price. This method does not provide an appraisal of each individual comparable property and cannot be considered as such.
  - f) The adjusted value of these other three properties does not reflect the market value of any of the comparable properties. Accordingly, the comparison between the 1995 "Adjusted Sales Price of Comparable" and the 2002 assessed value of these properties does not establish error in the assessment of the property under appeal.
  - g) Further, in support of its position, the Respondent presented a list of twenty comparable properties and presented each property's actual sale price and date of sale. The range reasonably supports the assessed value of the subject property. The Respondent also used neighborhood trend factors to adjust the property's actual 1995 sale price of \$129,000. This calculation resulted in an adjusted value of \$147,328, further supporting the 2002 assessed value of \$143,500.
  - h) The Petitioner did not rebut this evidence presented by the Respondent.

### **Conclusion**

17. The Petitioner 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: \_\_\_\_\_

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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.**