

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition:** 45-026-02-1-5-00893  
**Petitioners:** Michael P. & Karen S. Shanahan  
**Respondent:** Department of Local Government Finance  
**Parcel:** 007-26-35-0414-0008  
**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 December 8, 2003. The Department of Local Government Finance (the DLGF) determined that the property tax assessment for the subject property is \$83,900 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 27, 2004.
3. The Board issued a notice of hearing to the parties dated November 5, 2004.
4. Special Master Kathy J. Clark held the hearing in Crown Point on December 8, 2004.

### Facts

5. The subject property is located at 7225 Tennessee Avenue, Hammond. The location is in North Township.
6. The subject property consists of a one story, frame, residential dwelling.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed value of subject property as determined by the DLGF is:  
Land \$17,900    Improvements \$66,000    Total \$83,900.
9. Assessed value requested by Petitioners is:  
Land \$14,320    Improvements \$54,400    Total \$68,720.

10. Persons sworn as witnesses at the hearing:  
For Petitioners — Michael P. Shanahan, owner,  
For Respondent — Stephen H. Yohler, assessor/auditor.

### **Issues**

11. Summary of Petitioners' contentions in support of an error in the assessment:
- a) At the time of reassessment, the home needed over \$30,000 in repairs to bring the dwelling up to City of Hammond code requirements and/or market value. *Petitioner Exhibit 4*. Since the reassessment much of this work has been completed. *Petitioner Exhibit 5; Shanahan testimony*.
  - b) The windows and siding still need to be replaced. The cost of this work and other items would be substantial. *Shanahan testimony*.
  - c) The condition of the streets, sewers, sidewalks, and adjacent properties affects the market value of the subject. *Petitioner Exhibit 8; Shanahan testimony*.
  - d) This is an area of mainly three-bedroom, slab homes. The average assessment in the subject area is \$68,000 to \$69,000. The subject is assessed at \$83,900. This neighborhood would affect the market value of the subject. *Petitioner Exhibit 6; Shanahan testimony*.
  - e) An appraisal was completed on March 18, 1991, that determined the subject's value as \$56,000 using the market/income approach. A second appraisal was done June 12, 1998, for refinancing purposes using the substitution/sales approach. That appraisal determined the market value of the subject to be \$80,000. *Petitioner Exhibit 7; Shanahan testimony*.
12. In support of the assessment, Respondent contends that a list of sales from within the same neighborhood shows the assessment to be correct. *Respondent Exhibits 2, 4; Yohler 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 County 991,
  - c) Exhibits:
    - Petitioner Exhibit 1 – Form 139L,
    - Petitioner Exhibit 2 – Summary of Petitioner's arguments,
    - Petitioner Exhibit 3 – Outline of evidence explaining relevance,

Petitioner Exhibit 4 – Copies of bid forms, bids, and calculation sheet,  
Petitioner Exhibit 5 – Receipts of work done,  
Petitioner Exhibit 6 – Listings and reassessments of neighborhood properties,  
Petitioner Exhibit 7 – Copies of 1998 and 1991 appraisals and reassessments of comparables,  
Petitioner Exhibit 8 – Photographs of subject property and surrounding area,  
Respondent Exhibit 1 – Form 139L,  
Respondent Exhibit 2 – Subject property record card,  
Respondent Exhibit 3 – Subject photograph,  
Respondent Exhibit 4 – Sales report,  
Board Exhibit A – Form 139L,  
Board Exhibit B – Notice of Hearing,  
Board Exhibit C – 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 Board 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 provided sufficient evidence to establish a prima facie case. The Respondent did not rebut the Petitioners' evidence in regard to assessed value. This conclusion was arrived at because:

- a) Petitioners contend that the subject property should be assessed at \$68,720. To support that contention they submitted a list of properties in the surrounding area to show that the average assessment was \$68,000 to \$69,000. The properties on the list range from \$57,700 to \$105,700. The subject property is currently assessed at \$83,900. Petitioners did not submit any probative evidence to show the similarities or

- differences between the subject and the listed properties that would enable the Board to discern an error in the subject assessment. Consequently, no relevance has been established for those values and any opinion about the value of the subject property based on that evidence is merely a conclusion that carries no weight. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005); *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- b) The Petitioners submitted two appraisals, one done in 1991 and one done June 1998. The 1991 appraisal is eight years before the valuation date of January 1, 1999, and carries no weight for purposes of this determination. *Long*, 821 N.E.2d at 471. The June 1998 appraisal was prepared by a licensed, certified appraiser. That appraisal includes similar properties from the subject area and estimates the value at \$80,000 as of June 12, 1998. This appraisal is the best evidence of market value offered by Petitioners and accepting it makes consideration of the other individual issues raised by Petitioner unnecessary. *Id.*
  - c) The 1998 appraisal considered the effects of location and condition and is deemed to carry the most weight in this determination. The appraisal serves to establish a prima facie case establishing that the current value of \$83,900 is incorrect and that \$80,000 is the correct value. As a result, the burden shifted to the Respondent to offer evidence to rebut or impeach the appraisal. *American United*, 803 N.E.2d 276 (Ind. Tax Ct. 2004); *Meridian Towers*, 805 N.E.2d at 479.
  - d) Respondent claims that other sales in the same area show that the current assessment of \$83,900 is correct. Respondent did not establish, however, that the sales it relies upon are comparable to the subject property. Respondent did not submit probative evidence to show the similarities or differences between the subject and the other sales that would enable the Board to discern an error in the subject assessment. Consequently, no relevance has been established for those values and any opinion about the value of the subject property based on that evidence is merely a conclusion that carries no weight. *Long*, 821 N.E.2d at 470; *Whitley Products*, 704 N.E.2d at 1119. The Respondent's listing of sales does not contain enough facts to impeach the Petitioners' appraisal or effectively support the current assessment. The unsubstantiated conclusions concerning the comparability of properties do not constitute probative evidence. *Id.*

### **Conclusion**

16. Based on the 1998 appraisal, Petitioners made a prima facie case regarding the market value of their property. Respondent failed to rebut that case. The Board finds in favor of Petitioners.

## Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to a total of \$80,000.

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

---

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>.