

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-016-02-1-5-00235  
**Petitioners:** Michael & Yvonne Galich  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 006-27-17-0213-0015  
**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. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held. The Department of Local Government Finance (the "DLGF") determined that the property tax assessment for the subject property is \$7800 and notified the Petitioners on March 26, 2004.
2. The Petitioners filed a Form 139L petition on April 27, 2004.
3. The Board issued a notice of hearing to the parties dated October 18, 2004.
4. Special Master Dalene McMillen held the hearing in Crown Point on November 18, 2004.

### Facts

5. The subject property is a 95' x 143' vacant lot located at 82 Deep River Drive, Hobart. The location is in Hobart Township.
6. The Special Master did not conduct an on-site visit of the property.
7. The assessed value of the subject property as determined by the DLGF:  
Land \$7800                      Improvements -0-                      Total \$7800.
8. The assessed value requested by the Petitioners:  
Land \$3800                      Improvements -0-                      Total \$3800.

9. The following persons were present and sworn as witnesses at the hearing:  
For the Petitioners — Michael Galich, Owner,  
For the DLGF — Steven McKinney, Assessor/Auditor.

### **Issues**

8. Summary of Petitioners' contentions in support of an alleged error in the assessment:
  - a. The assessed value is overstated because the property has a storm sewer ditch in middle of the lot and it is unbuildable. *Galich testimony.*
  - b. The assessed value exceeds the market value of the property. The Petitioners request the land be assessed for \$3800. *Galich testimony.*
  - c. Petitioners presented photographs to show the property is overgrown with brush and trees, has water standing on the property from the storm sewer ditch and is unbuildable. *Petitioner Ex. 1; Galich testimony.*
9. Summary of Respondent's contentions in support of the assessment:
  - a. The property is correctly assessed at \$7800. The assessed value is fair and consistent with other properties in the neighborhood. *McKinney testimony.*
  - b. The subject land is valued with the same base rate as the adjoining lots in the neighborhood and has received a 75 percent negative influence factor based on the topography. *Respondent Ex. 2; McKinney testimony.*

### **Record**

10. 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. 608,
  - c. Exhibits:  
Petitioner Exhibit 1 – Ten photographs of the subject property,  
Respondent Exhibit 1 – Form 139L petition dated April 27, 2004,  
Respondent Exhibit 2 – Petitioner's 2002 property record card,  
Board Exhibit A – Form 139L petition dated April 27, 2004,  
Board Exhibit B – Notice of Hearing,  
Board Exhibit C – Hearing sign-in sheet,
  - d. These Findings and Conclusions.

## Analysis

11. The most applicable 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.
12. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
  - a. Petitioners contend that the subject property is over valued because the lot is unbuildable. Petitioners presented ten photographs to support their position. The photographs of the subject property to show the property is overgrown with brush and trees, has water standing from the storm sewer ditch. Although it can be presumed that the storm sewer ditch has a negative affect on the property value, it already has a 75 percent negative influence factor for that very reason. There is no probative evidence that a greater adjustment is necessary because of the ditch.
  - b. Petitioners are required to show an error in the assessment and what the correct assessment should be. *See Meridian Towers*, 805 N.E.2d at 478. If there should be a greater negative influence factor, Petitioners must prove what it should be. *See Phelps Dodge v. State Bd. of Tax Comm'rs*, 705 N.E.2d 1099 (Ind. Tax Ct. 1999) (Petitioner must present probative evidence that would support the application of a negative influence factor and a quantification of that influence factor at the administrative level.)
  - c. Petitioners did not attempt to quantify an additional influence factor. Accordingly, the Board finds in favor of the Respondent.

- d. Petitioners merely contend the assessed value of the subject property is higher than its market value. There is no probative evidence to establish the market value of this property or otherwise support Petitioners' contention based on market value. Consequently, the Board finds for the Respondent. The Petitioners did not present any probative evidence indicating the subject property's market value is less than the current assessed value.

**Conclusion**

- 13. The Petitioners 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: \_\_\_\_\_

\_\_\_\_\_  
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.**