

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-5-00911  
**Petitioner:** Milos Lukovic  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001-25-46-0034-0036  
**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 on December 13, 2003. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$41,400 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 29, 2004.
3. The Board issued a notice of hearing to the parties on August 31, 2004.
4. A hearing was held on October 6, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is a residential, rental home located at 6530 East 3<sup>rd</sup> Avenue, Gary, in Calumet Township.
6. The Special Master did not conduct an on-site visit of the property.
7. Assessed Value of the subject property as determined by the DLGF:  
Land \$6,600 Improvements \$34,800 Total \$41,400  
  
Assessed Value requested by the Petitioner: \$18,000 total
8. The following persons were present and sworn in at the hearing:

For Petitioner: Milos Lukovic, Owner  
For Respondent: David Depp, Representing the DLGF

### **Issues**

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

The Petitioner relies upon an appraisal estimating the value of the subject property to be \$20,000 as of March 1, 2000. *Petitioner's Exhibit 1.*

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

- a. The Respondent presented information concerning the sales of twenty (20) bi-level homes of similar age and condition as the subject dwelling in support of the assessment. *Respondent's Exhibit 4.*
- b. The purportedly comparable properties relied upon by the Petitioner's appraiser are not similar to the subject property. Comparable #1 looks abandoned, comparable #2 is "ridiculous," and comparable number 3 is a small ranch style house. In fact, all of the purportedly comparable dwellings identified by the appraiser are ranch style homes while the subject property is a bi-level. *Depp testimony.*

### **Record**

11. 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. #423.
- c. Exhibits:

Petitioner's Exhibit 1: March 2000 Appraisal

Respondent's Exhibit 1: Form 139L

Respondent's Exhibit 2: Subject property record card

Respondent's Exhibit 3: Photograph of the subject property

Respondent's Exhibit 4: Comparable Sales Summary Sheet

Board Exhibit A: Form 139 L Petition

Board Exhibit B: Notice of Hearing

Board Exhibit C: Hearing Sign-in Sheet

- d. These Findings and Conclusions.

## Analysis

12. 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.
13. The Petitioner did not provide sufficient evidence to support his contention for a reduction in the assessed value of the subject property. This conclusion was arrived at because:
- a. The Petitioner relied solely upon a Residential Appraisal Report prepared by a licensed appraiser. The appraisal report estimates the subject property's market value to be \$20,000 as of March 1, 2000. *Petitioner's Exhibit 1*.
  - b. A taxpayer may establish a prima facie case for a change in assessment based upon an appraisal that quantifies the market value of a property through use of generally recognized appraisal principles. *See Meridian Hills*, 805 N.E.2d at 479 (holding that the taxpayer established a prima facie case that its improvements were entitled to a 74% obsolescence depreciation adjustment based on an appraisal quantifying the improvements' obsolescence through the cost and income capitalization approaches).
  - c. One such generally recognized method of appraisal is the sales comparison approach. That approach "estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market." MANUAL at 2. *See also, Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 469 (Ind. Tax Ct. 2005). In order to effectively use the sales comparison approach as evidence in a property assessment appeal, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of the two properties. *Long*, 821 N.E.2d at 470. Instead, the proponent must identify the

- characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*
- d. Here, the Petitioner presented an appraisal prepared by a licensed appraiser. The appraisal, on its face, purports to have been prepared in accordance with the Uniform Standards of Appraisal Practice (USPAP) adopted by the Appraisal Standards Board of the Appraisal Foundation. *Petitioner's Exhibit 1, at 8.* The appraiser utilized two approaches to value - the cost approach and the sales comparison approach. *Id. at 2.* With regard to the sales comparison approach, the appraiser compared the subject property and three purportedly comparable properties on the basis of numerous characteristics, including: the age and condition of the dwellings; the number of bedrooms and bathrooms; gross living area; heating and cooling components; the existence and/or size of garages; the presence of features and amenities such as fireplaces, pools, decks and porches; lot size, and location. *Id.* The appraiser made adjustments to the sale prices of the purportedly comparable properties based upon differences between those properties and the subject property with regard to gross living area, the existence and size of garages and, in the case of one property, the existence of a fence. *Id.*
- e. The appraiser estimated a value for the subject property of \$55,800 under the cost approach and \$20,000 under the sales comparison approach. *Id.* The appraiser indicated that he gave the sales comparison approach the most weight because it directly reflects “buyer and seller activity.” *Id.* The appraiser used the cost approach “only in a supportive manner.” *Id.*
- f. Thus, the appraisal conforms to the general requirements set forth in the Manual and case law for establishing the relevance of evidence to the determination of true tax value. The appraisal, however, suffers from flaws that ultimately deprive it of probative value. For example, the appraiser’s estimation of value under the cost approach was more than twice the amount of his estimation under the sales comparison approach, yet he indicated that he used the cost approach in a “supportive manner.” Under these circumstances, it is difficult to see how the appraiser’s valuation under the cost approach could possibly support his ultimate conclusion of value. Even if the appraiser had completely disregarded the value determined under the cost approach, some explanation would be necessary with regard to the disparity in values.
- g. In addition, as the Respondent pointed out, the photographs of two of the three purportedly comparable properties identified by the appraisal appear to reveal dwellings with substantially greater exterior deterioration than the subject dwelling. *See Petitioner's Exhibit 1 at 5.* The copy of the appraisal submitted by the Petitioner does not contain a photograph of the third property. The appraiser did not account for this manifestly apparent difference in exterior deterioration and deemed each property to be in “fair” condition.

- h. Based on the foregoing, the Board finds that the Petitioner failed to establish that he is entitled to a reduction in assessment.

### **Conclusion**

The Petitioner failed to establish that he is entitled to a reduction in assessment. The Board finds for 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.** 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>.