

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-016-02-1-5-00257; 45-016-02-1-5-00258; 45-016-02-1-5-00259;  
45-016-02-1-5-00260; 45-016-02-1-5-00261  
**Petitioner:** Muhammad A. & Andleeb Javed  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 006-19-21-0033-0012; 006-19-21-0033-0011; 006-19-21-0033-0013;  
006-19-21-0033-0014; 006-19-21-0033-0015  
**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 on December 10, 2003, in Lake County, Indiana. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property is \$6,100 for parcel #006-19-21-0033-0012, \$6,500 for parcel #006-19-21-0033-0011, \$6,100 for parcel #006-19-21-0033-0013, \$6,100 for parcel #006-19-21-0033-0014, and \$5,800 for parcel #006-19-21-0033-0015, and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L for each parcel on April 14, 2004.
3. The Board issued a notice of hearing for each parcel to the parties dated October 18, 2004.
4. A hearing was held on November 18, 2004, in Crown Point, Indiana before Special Master Peter Salvesson.

### Facts

5. The subject properties are located at 400 Harrison, New Chicago, in Hobart Township.
6. The subject properties are vacant residential lots consisting of 0.086 acres of land each.
7. The Special Master did not conduct an on-site visit of the property.
8. The DLGF determined that the assessed value of unimproved land for the subject property is \$6,100 for parcel #006-19-21-0033-0012, \$6,500 for parcel #006-19-21-0033-

0011, \$6,100 for parcel #006-19-21-0033-0013, \$6,100 for parcel #006-19-21-0033-0014, and \$5,800 for parcel #006-19-21-0033-0015.

9. The Petitioner requests a value of \$2,500 for each of the parcels under appeal.
10. Muhammad A. Javed, Petitioner, and Diane Spenos, representing the DLGF, appeared at the hearing and were sworn as witnesses.

### **Issues**

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
  - a) The Petitioner purchased all five of the subject parcels for a total of \$12,000 on March 18, 2003. *Javed testimony; Pet'r Ex. 1.*
  - b) The parcels were purchased from "a lady who abandoned the properties and didn't keep them up." *Javed testimony.* The purchase was an arm's-length transaction. *Id.*
  - c) Based on the purchase price of the subject properties, each parcel should be valued at \$2,500. *Javed argument.*
12. Summary of Respondent's contentions in support of the assessment:
  - a) The purchase price is a "good value" to place on the property if the purchase was an arm's-length transaction. *Spenos 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 Co -802.
  - c) Exhibits:

|                       |                      |
|-----------------------|----------------------|
| Petitioner Exhibit 1: | Settlement Statement |
| Petitioner Exhibit 2: | Warranty Deed        |
| Board Exhibits A:     | Form 139L Petition   |
| Board Exhibits B:     | Notice of Hearing    |
| Board Exhibits C:     | Sign-In Sheet        |
  - d) These Findings and Conclusions.

## Analysis

14. The most applicable laws 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 at 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.
15. The Petitioner provided sufficient evidence to support the Petitioner’s contentions. The Respondent did not rebut the Petitioner’s evidence. This conclusion was arrived at because:
- a) The Petitioner contends that the subject parcels are overvalued in their assessments. Based on the Petitioner’s March 18, 2003, purchase of the parcels for a total of \$12,000, the Petitioner requests an assessment of \$2,500 for each parcel.
  - b) The 2002 Real Property Assessment Manual (“Manual”) defines the “true tax value” of real estate as “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). The Manual further provides that for the 2002 general reassessment, a property’s assessment must reflect its market value-in-use as of January 1, 1999. MANUAL at 4.
  - c) The sale of a subject property is often the most compelling evidence of its market value. In this case, the Petitioner testified that the sale was an arm’s-length transaction. The Respondent agreed that the purchase price reflects a “good value” for the properties.
  - d) The total purchase price of \$12,000 divided among the five parcels results in a \$2,400 assessment for each parcel. Thus, the Board hereby lowers the assessment of each subject parcel to \$2,400.

### Conclusion

16. The Petitioner made a prima facie case. The Respondent did not rebut the Petitioner's evidenced. The Board finds in favor of the Petitioner. The assessment for each parcel should be changed to \$2,400.

### 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 \$2,400 for each parcel.

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>.