

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-016-02-1-5-00266  
**Petitioner:** Muhammad A. & Andleeb Javed  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 006-19-21-0033-0017  
**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 was \$262,000, and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 14, 2004.
3. The Board issued a notice of hearing 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 property is located at 400 37<sup>th</sup> Avenue, Hobart, in Hobart Township.
6. The subject property is a commercial building located on a commercial lot.
7. The Special Master did not conduct an on-site visit of the property.
8. The DLGF determined that the assessed value of the subject property is \$7,800 for the land and \$254,200 for the improvements for a total assessed value of \$262,000.
9. The Petitioner requests a value of \$7,800 for the land and \$150,000 for the improvements for a total value of \$157,800.

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 the subject property, together with five other parcels, for \$125,000 on September 29, 1999. *Javed testimony; Pet'r Ex. 1.* The address shown on the purchase agreement is actually the same location as the subject's legal address. *Javed testimony.*
  - b) The property was purchased through a real estate agent, and the sale was an arm's-length transaction. *Id.*
  - c) All of the parcels together are currently worth about \$150,000. *Id.* The parcels would have been worth about \$130,000 on January 1, 1999. *Id.* The Petitioner would not have paid more than \$50,000 for the subject building and subject lot by themselves. *Id.*
12. The Respondent had no evidence to submit and did not rebut the evidence presented by the Petitioner.

### **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 -803.
  - c) Exhibits:
    - Petitioner Exhibit 1: Purchase Agreement
    - Board Exhibit A: Form 139L Petition
    - Board Exhibit B: Notice of Hearing
    - Board Exhibit 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 property is overvalued in its assessment. Based on the Petitioner’s September 29, 1999, purchase of the property, along with five other parcels, for a total price of \$125,000, the Petitioner requests that the assessment be lowered.
  - 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) Here, the Petitioner presented a sales agreement completed September 29, 1999. This sales agreement was for the subject property and five other parcels. The total price paid for all six parcels was \$125,000. The sale of a subject property is often the most compelling evidence of its market value. Thus, the Petitioner has made a prima facie case that the value of the subject property can be no greater than \$125,000, and that the current assessment of \$262,000 is incorrect. The Respondent did not rebut this evidence, and submitted no evidence of its own in support of the current assessment.
  - d) While the Petitioner testified that he wouldn’t have paid more than \$50,000 for the building and parcel under appeal by itself, this is merely a matter of opinion. It does not represent evidence of the actual market value of the property, or the thoughts of both a willing buyer and willing seller. Thus, no evidence exists on the record to divide the \$125,000 purchase price among the six parcels purchased.

- e) Based on the foregoing, the Board hereby lowers the assessment of the subject property to \$125,000.

### **Conclusions**

16. The Petitioner made a prima facie case. The Respondent did not rebut Petitioner's evidence. The Board finds in favor of Petitioner and concludes that the assessment should be changed to \$125,000.

### **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 \$125,000.

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 Trail 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>.**