

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-016-02-1-5-00267  
**Petitioner:** Muhammad A. & Andleeb Javed  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 006-35-50-0231-0020  
**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 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property is \$77,100, 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 3400 Liverpool Road, Lake Station, in Hobart Township.
6. The subject property is an improved 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 \$34,400 for the land and \$42,700 for the improvements for a total assessed value of \$77,100.
9. The Petitioner requests a value of \$15,000 for the land and \$35,000 for the improvements for a total value of \$50,000.

10. Muhammad A. Javed, Petitioner, and Diana 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 12-13 years ago for \$25,000. *Javed testimony.*
  - b) The subject property is on a secondary road, and would not bring more than \$50,000 in the open market today. *Id.*
  - c) The Petitioner receives \$500 per month in rent for the property. *Id.* Using a “factor of 8” and multiplying it by the \$6,000 per year in rental income, the resulting property value is \$48,000. *Id.*
12. The Respondent submitted no evidence, and did not rebut the evidence submitted 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 -804.
  - c) Exhibits:
    - 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 did not provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
- a) The Petitioner contends the property is overvalued in its assessment.
  - 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) In this case, the record is devoid of any evidence of the market value of the subject property. While the Petitioner claims to have purchased the property 12-13 years ago for \$25,000, there is no documentary evidence of this sale, whether the sale was an arm’s-length transaction, or how the purported sale price relates to the January 1, 1999, valuation date for the assessment in question.
  - d) Furthermore, the Petitioner submitted no documentary evidence of the \$500 per month in rent he allegedly receives for the property, and no support for the use of a “factor of 8” to value the property based on the purported annual rental income.
  - e) Thus, the Petitioner has failed to make a prima facie case, and the Respondent has no burden to defend the assessment.

### **Conclusions**

16. The Petitioner failed to make a prima facie case. The Board finds in favor of 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>.