

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-032-02-1-5-00576  
**Petitioner:** Nancy C. Ranich  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 009-20-13-0621-0044  
**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 January 23, 2004, 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 \$263,900 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 23, 2004.
3. The Board issued a notice of hearing to the parties dated October 27, 2004.
4. A hearing was held on December 2, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is located at 1501 Pinehurst Lane, Schererville, in St. John Township.
6. The subject property is a single family townhome on 73' x 165' 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 \$61,500 for the land and \$202,400 for the improvements for a total assessed value of \$263,900.
9. The Petitioner requested an assessed value of \$29,100 for the land and \$193,000 for the improvements for a total assessed value of \$222,100.

10. David Ranich, the spouse of the property owner and attorney in fact for the property owner, and Everett Davis, 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 contends the assessment of the land on the subject property is too high based on a purchase price of a similar land parcel. *Ranich testimony*. In support of this contention, the Petitioner submitted a June 4, 2001, Offer to Purchase Real Estate between Hecimovich Development Incorporated and the Greens of Scherwood Corporation for four lots (lot 4, 17, 19 and 20) comprising 16 addresses for \$480,000. *Petitioner Exhibit 2*. According to Petitioner, this establishes a market value of \$30,000 per townhome lot. *Ranich testimony*.
  - b) The Petitioner also submitted a property record card for 531 Pinehurst Lane in support of the contention that the subject property is over-valued. *Petitioner Exhibit 1*. According to Petitioner's exhibit, the land on this property is assessed for only \$29,050 and has a total assessed value of only \$209,000. *Ranich testimony; Id.*
  - c) The Petitioner further contends that the subject land has an easement for the Northern Indiana Public Service Company that runs across the property and restricts Petitioner's use of the property. *Ranich testimony*. According to Petitioner, this lowers the value of the subject property. *Id.*
  - d) In response to questioning, the Petitioner's witness testified that the subject property was purchased in 1996 for \$250,000.

12. Summary of Respondent's contentions in support of the assessment:
  - a) The Respondent contends the parcel is valued fairly and no change in assessment is warranted. *Davis testimony*.
  - b) The Respondent also submitted twenty purportedly "comparable" properties in support of the assessment. *Respondent Exhibit 4*.

### **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 County #899.

c) Exhibits:

Petitioner Exhibit 1: Property Record Card for 531 Pinehurst  
Petitioner Exhibit 2: Purchase Agreement for 4 lots

Respondent Exhibit 1: Form 139L Petition  
Respondent Exhibit 2: Subject Property Record Card  
Respondent Exhibit 3: Subject photograph  
Respondent Exhibit 4: Comparables summary  
Respondent Exhibit 5: Comparable PRCs and photographs  
Respondent Exhibit 6: Land table

Board Exhibit A: Form 139 L  
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 Board of Tax Commissioners*, 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. *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:

### *Land Values*

- a) The Petitioner submitted an “Offer to Purchase Real Estate” dated June 4, 2001, in support of his contention that the land on the subject property is over-valued. *Petitioner Exhibit 2*. The assessment of real property includes land, buildings and fixtures situated on the land and appurtenances to the land. THE REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A (incorporated by reference at 50 IAC 2.3-1-2) (the GUIDELINES), Chap. 1, p. 2. Property is assessed according to a base rate established for land by class in each neighborhood. GUIDELINES, Chap. 2, p. 9. The established value of land “represents the January 1, 1999 market value in use of improved land.” *Id.* at 7. Thus, although land is valued according to a base rate, it is based on market value principles.
- b) While evidence of the market value of comparable lots improved for development may be some evidence of the market value of the Petitioner’s lot, we do not find that Petitioner met this burden here. Petitioner’s market evidence was a single purchase of 4 parcels comprising 16 lots for \$480,000.<sup>1</sup> Petitioner alleges that this is the equivalent of \$30,000 per address. However, there is no evidence that the individual lots, purchased separately, would have sold for \$30,000. In fact, Petitioner’s evidence does not even show that a single parcel would be valued at \$120,000. Petitioner’s evidence only proves that 4 parcels, comprising 16 lots were valued at \$480,000. Petitioner’s argument that the subject lot should be valued \$30,000 accordingly does not follow.<sup>2</sup>
- c) In addition, Petitioner’s witness provided no evidence of the size, shape, or topography of the purportedly “comparable” properties. This falls short of the burden to prove that properties are comparable as established by the Indiana Supreme Court. *See Beyer v. State*, 280 N.E.2d 604, 607 (Ind. 1972) (whether properties are “comparable” depends on many factors including size, shape, topography, accessibility and use). Thus, Petitioner failed to raise a prima facie case that the land at the subject property is over-valued.

### *Comparables*

- d) The Petitioner also contends that the assessment of the subject dwelling is higher than a neighboring property. In support of this contention, the Petitioner submitted a property record card for 531 Pinehurst Lane. Indiana Code § 6-1.1-2-2 requires uniform and equal assessments. Thus to the extent that the Petitioner can prove that his property is not assessed uniformly or equal to comparable properties, Petitioner’s

---

<sup>1</sup> Moreover, Petitioner’s evidence is only an accepted offer to purchase and not a consummated sale.

<sup>2</sup> In fact, larger lots are expected to sell for less on a square foot or acreage basis. The Guidelines recognize this market principle in its adjusted land values. For example, in a neighborhood where the standard residential lot is 100’ deep, a lot that is 50’ deep has a depth factor of .74, but a 150’ lot has a depth factor of only 1.14. *See* GUIDELINES, Chap. 2, p. 9. If size were unrelated to cost, a 50’ lot would have a .5 depth factor and a 150’ lot would have a depth factor of 1.5. Thus, the parties to a transaction involving 4 parcels, comprising 16 lots together would expect a lower purchase price than if those 16 lots were sold individually.

- assessment should be equalized. However, “taxpayers are required to make a detailed factual showing at the administrative level.” *Home Federal Savings Bank v. Madison Twp. Assessor*, 817 N.E.2d 332 (Ind. Tax Ct. 2004). To meet this showing, “the taxpayer must not only present probative evidence in support of its argument, but it must also sufficiently explain that evidence.” *Id.*
- e) To introduce evidence of comparable properties, a taxpayer must explain *how* the properties are comparable. *See Blackbird Farms Apts. v. Dep’t of Local Gov’t Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002) (holding that the taxpayer did not present a prima facie case where it provided assessment information for allegedly comparable properties but failed to explain *how* the properties were comparable). Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of the two properties. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005). 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. The proponent likewise must explain how any differences between the properties affect their relative market values-in-use. *Id.* *See also, Hoogenboom-Nofziger*, 715 N.E.2d at 1024 (holding that taxpayer failed to make prima facie case when he offered conclusory statements and photographs without further explanation); *Lacy Diversified Industries, Ltd. v. Dep’t of Local Gov’t Fin.*, 799 N.E.2d 1215, 1220 (Ind. Tax Ct. 2003) (holding that taxpayer failed to make prima facie case when he offered conclusory statements, property record cards, and photographs without further explanation).
- f) In the case at bar, the Petitioner has not met his burden. Petitioner’s “comparable” property is a townhome with 1883 sq.ft. of first floor living space and 972 sq.ft. of second story living space on a 37’ x 131’ lot. Petitioner’s property is a townhome with 2330 sq.ft. of first floor living space and 830 sq.ft. of second floor living space on a 73’ x 165’ lot. Despite the fact that both properties are townhomes in the same community, on the face of the evidence, the properties are not identical. Moreover, the Petitioner made no attempt to explain why or how the property is comparable to the subject property. Petitioner merely provided the property’s PRC. This falls far short of the burden that Petitioner faces. The Petitioner has only made a “de minimis factual showing” and has failed to “sufficiently link [his] evidence to the uniform and equal argument” that he raises here. *See Home Federal Savings Bank v. Madison Twp. Assessor*, 817 N.E.2d 332 (Ind. Tax Ct. 2004).

#### *Easement*

- g) Finally, the Petitioner argued that the subject property is not as valuable or marketable as other lots in the community because a utility easement is in the rear of the lot.
- h) Generally, land values in a given neighborhood are determined through the application of a Land Order that was developed by collecting and analyzing

comparable sales data for the neighborhood and surrounding areas. *See Talesnick v. State Bd. of Tax Comm'rs*, 693 N.E.2d 657, 659 n. 5 (Ind. Tax Ct. 1998). However, properties often possess peculiar attributes that do not allow them to be lumped with each of the surrounding properties for purposes of valuation. The term "influence factor" refers to a multiplier "that is applied to the value of land to account for characteristics of a particular parcel of land that are peculiar to that parcel." PROPERTY ASSESSMENT GUIDELINES OF 2002, glossary at 10. Petitioner has the burden to produce "probative evidence that would support an application of a negative influence factor and a quantification of that influence factor." *See Talesnick v. State Bd. of Tax Comm'rs.*, 756 N.E.2d 1104, 1108 (Ind. Tax Ct. 2001). While an easement running across the back of Petitioner's property, to the extent that the easement is peculiar to the subject property and not to the neighborhood as a whole, may be relevant to the issue of whether a negative influence factor should apply here, the Petitioner failed to show how this condition would impact the market value-in-use of the subject property, or show what the actual market value of the property is. *See Talesnick*, 756 N.E.2d at 1108.

- i) Where the Petitioner has not supported his claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

### **Conclusion**

16. The Petitioner failed to raise 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: **October 7, 2005**

---

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>>.