

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-028-02-1-4-00422  
**Petitioner:** Peter T. Mokol, Jr.  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 008-43-53-0006-0003  
**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 December 22, 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 \$326,900, and notified the Petitioner on March 31, 2004.
2. The Petitioner filed the Form 139L petition on April 23, 2004.
3. The Board issued a notice of hearing to the parties dated April 4, 2005.
4. A hearing was held on May 5, 2005, in Crown Point, Indiana before Special Master Dalene McMillen.

### Facts

5. The subject property is located on Appr. 6675 East 81<sup>st</sup> Avenue, Crown Point, Ross Township, in Lake County.
6. The subject property is 12.13 acres of undeveloped usable commercial land.
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 \$326,900 for land. The subject property is unimproved.
9. The Petitioner requests a value of \$243,520 for the land.

10. Peter T. Mokol, Jr., property owner, and Stephen H. Yohler, representing the DLGF, appeared at the hearing and were sworn as witnesses.

### **Issue**

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
  - a. The subject property is overvalued in comparison to a comparable property located in the subject area. *Mokol argument*. The comparable property is 15 acres, located on the same highway, one-third of a mile from the subject, and sold on December 4, 2000, for \$300,000 (\$20,000 per acre). *Petitioner Exhibit 1; Mokol testimony*.
  - b. The subject property is 12 acres and currently being assessed at \$26,900 per acre. *Mokol testimony*.
  - c. The Petitioner testified that the subject property is assessed at market value, while farms are being assessed at between one-fifth and one twentieth of their market values. *Mokol argument*. The subject property's assessment should be reduced to reflect the same percentage of the market value as farms. *Id*.
12. Summary of Respondent's contentions in support of assessment:
  - a. The subject property is correctly assessed at \$326,900 for the land. The assessed value is fair and consistent with other commercial properties in the subject area. *Respondent Exhibit 1; Yohler testimony*.
  - b. The Petitioner's parcel is classified as commercial property. The comparable property identified by the Petitioner is classified as residential. *Id; Petitioner Exhibit 1*.

### **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. 1591,
  - c. Exhibits:  
  
Petitioner Exhibit 1 – Comparable sale for Mary Piske,

Respondent Exhibit 1 – Subject property record card,  
Respondent Exhibit 2 – Plat map of the subject area,  
Respondent Exhibit 3 – Aerial photograph of the subject,  
Respondent Exhibit 4 – The Incremental/Decremental Land Pricing in Lake  
County, Indiana and the Commercial and Industrial Neighborhood Valuation  
Form for neighborhood #14394,

Board Exhibit A – Form 139L petition,  
Board Exhibit B – Notice of Hearing on Petition,  
Board Exhibit C – Hearing sign-in sheet,

- d. These Findings and Conclusions.

### **Analysis**

14. The most applicable cases are:

- a. A Petitioner seeking review of a determination of assessing officials 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 Township Assessor*, 805 N.E.2d 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. *See Indianapolis Racquet Club, Inc. v. Washington Township 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 Insurance Company 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 subject property is overvalued in its assessment, based on the sale of a purportedly comparable property, and the assessments of farm properties.

- 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 support of his position, the Petitioner submitted a sale sheet from Milo F. Vale & Co., Inc., that shows 15 acres located on the south side of U.S. 30 in Hobart sold for \$300,000. *Petitioner Exhibit 1*. The sale took place on December 4, 2000.
- d. Although the sale price for the 15 acres was an average of \$20,000 per acre, the Petitioner has not established how or why these 15 acres, zoned residential, are comparable to the subject’s 12.176 acres zoned commercial. The Petitioner merely pointed to the fact that the purportedly comparable land is located on the same highway as the subject, and therefore the subject land should be reduced to \$20,000 per acre.
- e. The Petitioner did not establish that the property submitted as comparable was actually comparable to the subject property. The Petitioner’s merely claimed it to be so. The Petitioner’s conclusory statement that something is comparable does not constitute probative evidence of comparability. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005); *Blackbird Farms Apts., LP v. Dept. of Local Gov’t Fin.*, 765 N.E.2d 711 (Ind. Tax Ct. 2002); *Whitley Prods., Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- f. Clearly, land zoned as residential is not comparable to land zoned commercial.
- g. The Petitioner also argues, while agreeing that his property is assessed at its market value, that farmland is assessed lower than its market value. The Petitioner failed to establish, however, that either his own property or any other types of property are not assessed according to applicable guidelines.
- h. Where the Petitioner has not supported the 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). Thus, no change in the assessment of the subject property is warranted.

### Conclusion

16. The Petitioner failed to make 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: \_\_\_\_\_

---

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/inde.html](http://www.in.gov/judiciary/rules/trial_proc/inde.html). The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>