

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-5-00716  
**Petitioner:** Philippa Tolliver  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001-25-43-0303-0021  
**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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held. The Department of Local Government Finance ("DLGF") determined that the Petitioner's property tax assessment for this parcel was \$108,700. It notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 28, 2004.
3. The Board issued a notice of hearing to the parties on September 14, 2004.
4. Special Master Peter Salveson held the hearing in Crown Point on October 14, 2004.

### Facts

5. The subject property is located at 6620 Hemlock Ave., Gary, in Calumet Township.
6. The subject property is a single-family residence on a lot consisting of 0.186 acres.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed value of the subject property as determined by the DLGF:  
Land \$18,700                      Improvements \$90,000                      Total \$108,700.
9. Assessed value requested by the Petitioner:  
Land \$18,700                      Improvements \$65,300                      Total \$84,000.
10. Persons sworn as witnesses at the hearing:  
For Petitioner — Philippa Tolliver, Owner,  
For Respondent — Larry Vales, Staff Appraiser, Cole-Layer-Trumble.

## **Issue**

11. Summary of Petitioner's contentions in support of alleged error in assessment:
  - a) A patio area is assessed as finished living area. The correct amount of living area is 1,782 square feet of living area. *Tolliver testimony; Petitioner Exhibit A.*
  - b) The assessment should only include seven plumbing fixtures. *Tolliver testimony; Petitioner Exhibit A.*
  
12. Summary of Respondent's testimony:
  - a) The Respondent agreed that there is an error in the number of plumbing fixtures assessed as part of the subject property. *Vales testimony.*
  - b) The Respondent agreed that there is an error in the assessment of the patio. *Vales 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. 525,
  - c) Exhibits:
    - Petitioner Exhibit A: Prior year property record card,
    - Respondent Exhibit 1: Form 139L Petition,
    - Respondent Exhibit 2: Subject property record card,
    - Respondent Exhibit 3: Photo of subject property,
    - Respondent Exhibit 4: Comparable property record cards and photos,
    - Respondent Exhibit 5: Maps – Aerial and plat,
    - 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 governing cases 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 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. There is sufficient evidence to support the Petitioner's contentions. The Respondent did not rebut the Petitioner's testimony and evidence. This conclusion was arrived at because:
- a) The Petitioner established that the assessment was incorrect and established what the correct assessment should be. The Respondent did not contest the evidence and testimony presented by the Petitioner.
  - b) The parties agreed that the patio should be assessed as a patio and not as finished living space.
  - c) The parties agree that the total number of plumbing fixtures should be changed to seven.

## Conclusion

16. The Petitioner proved her case. The Respondent agreed with the Petitioner. The Board finds in favor of the Petitioner.

## Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should be changed. The living area should be changed to 1,782 square feet and the basement and crawl space changed to agree with the change in living area. The concrete patio with 332 square feet should be added. The plumbing fixtures should be decreased to seven.

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.**