

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-5-01012  
**Petitioner:** Ramon Ramirez  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001-25-41-0246--0030  
**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 February 28, 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 was \$21,400 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 27, 2004.
3. The Board issued a notice of hearing to the parties dated October 8, 2004.
4. Special Master Peter Salveson held a hearing on November 16, 2004, in Crown Point, Indiana.

### Facts

5. The subject property is located at 7524 Harold Ave., Gary. The location is in Calumet Township.
6. The subject property is a vacant residential lot consisting of 0.142 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed value of subject property as determined by the DLGF:  
Land \$21,400.
9. Assessed value requested by Petitioner:  
Land \$ 7,500.

10. Persons sworn in as witnesses at the hearing:  
Ramon Ramirez, Owner,  
Diane Spenos, Hearing Officer, DLGF.

### **Issues**

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
  - a. The Petitioner contends that the current assessment is incorrect because it does not reflect the value of the subject property as of January 1, 1999. *Ramirez testimony.*
  - b. The Petitioner contends that the assessment of the property should be changed to reflect the purchase price of the property. The subject property was purchased for \$6,250 on July 14, 1999, after being listed for sale for 23 days. This was the second time it was listed; it had been listed previously for a term of 184 days. *Ramirez testimony.*
  - c. The Petitioner contends that the property record card incorrectly shows the subject property as a level lot. The Petitioner contends that the subject property is low and rolling and is subject to occasional flooding. If the property were to be developed, it would require a sizable amount of fill and some type of erosion control. *Ramirez testimony; Petitioner Exhibit 8.*
  
12. Summary of Respondent's contentions:
  - a. The Respondent testified that the property record card had been changed to show the low topography and the fact that there is no sewer. *Spenos testimony; Respondent Exhibit 2.*
  - b. The Respondent contends that the subject property should be valued in conjunction with the adjacent parcel owned by the Petitioner. The Respondent testified that the subject property should have a total negative influence factor of 52% to account for the fact that the lot is vacant and for the excess frontage. *Spenos testimony; Respondent Exhibit 2.*

### **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 599,
  - c. Exhibits:
    - Petitioner Exhibit 1: Notice of Assessment Form 11,
    - Petitioner Exhibit 2: Notice of Final Assessment,
    - Petitioner Exhibit 3: Subject property record card,
    - Petitioner Exhibit 4: Previous owner's 1<sup>st</sup> listing,
    - Petitioner Exhibit 5: Previous owner's 2<sup>nd</sup> listing and sale information,
    - Petitioner Exhibit 6: Current listing,
    - Petitioner Exhibit 7: Closing statement from July 7, 1999,
    - Petitioner Exhibit 8: VHS video of subject property,
    - Respondent Exhibit 1: Form 139L Petition,
    - Respondent Exhibit 2: Subject property record card,

- Board Exhibit A: Form 139 L 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, by preponderance of the evidence, 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. Wash. 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 contentions. This conclusion was arrived at because:
- a. The Petitioner submitted evidence showing that the actual purchase price of the subject property was \$6,250 in July, 1999. The Petitioner showed that the property had been listed for sale twice and that this purchase was an arms-length transaction. *Ramirez testimony; Petitioner Exhibits 4, 5 and 7.*
  - b. The sale price presented by the Petitioner shows that the assessment is incorrect and what the correct assessment should be.
  - c. The Petitioner established a prima facie case. The burden then shifted to the Respondent.
  - d. The Respondent did not rebut or impeach the Petitioner's evidence. *American United Life Ins. Co.*, 803 N.E.2d 276.

### **Conclusions**

16. The Petitioner made a prima facie case. The Respondent did not rebut the Petitioner's evidence. The Board finds in favor of the Petitioner and concludes that the subject property value should be changed to \$6,250.

## Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should 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/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>.**