

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-002-02-1-5-00111  
**Petitioner:** Richard & Vivian Boer  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 170401290025  
**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 October 29, 2003, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax for the subject property was \$95,900. The DLGF's Notice of Final Assessment was sent to the Petitioners on March 19, 2004.
2. The Petitioner filed a Form 139L on April 5, 2004.
3. The Board issued a notice of hearing to the parties dated July 20, 2004.
4. A hearing was held on August 24, 2004, in Crown Point, Indiana before Special Master Alyson Kunack.

### Facts

5. The subject property is located 1618 Heritage Drive, Lowell, Cedar Creek Township, Lake County.
6. The subject property is a single-family row type dwelling.
7. The Special Master did not conduct an on-site visit of the property.
  - a) Assessed Values of subject property as determined by the DLGF are:  
Land \$10,400    Improvements \$85,500    Total \$95,900
  - b) Assessed Values requested by Petitioner per the Form 139L are:  
Land \$7,300    Improvements \$63,700    Total \$71,000
8. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.
9. Persons sworn in at hearing:  
For Petitioner: Richard and Vivian Boer, Petitioners

For Respondent: Larry Vales, Cole-Layer-Trumble (CLT) representing the DLGF

## **Issues**

10. Summary of Petitioners' contentions in support of an alleged error in the assessment:
  - a) The assessed value of the subject property is not in line with other comparable properties. *Boer testimony.*
  - b) The subject and the comparable properties submitted are pre-fabricated homes built on the same model, the "Denver", and are identical. The only difference between the properties is the presence of a porch and/or fireplace; yet the assessments vary in a range of approximately \$20,000. *Boer testimony; Petitioners Exhibits 3,4, &7.*
  - c) The land value of the subject property does not appear to be equitably assessed in comparison to Parcel No. 002-17-0123-0003. *Boer testimony; Petitioners Exhibit 5.*
  
11. Summary of Respondent's contentions in support of the assessment:
  - a) The land is valued by the front-foot method, and valued according to the REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A.
  - b) Differences between the square footage and features of the subject property and those of Parcel No. 002-17-0123-0003 explain the difference in the values of the respective improvements.
  - c) According to comparable sales data, the subject property's assessed value is fair.

## **Record**

12. The official record for this matter is made up of the following:
  - a) The Petition, and all subsequent submissions by either party.
  - b) The tape recording of the hearing labeled Lake Co. #710.
  - c) Exhibits:
    - Petitioners Exhibit 1: Form 139L Petition
    - Petitioners Exhibit 2: Form 11 and Notice of Final Assessment
    - Petitioners Exhibit 3: Pictures of comparable properties
    - Petitioners Exhibit 4: Comparison of assessed values for comparable properties
    - Petitioners Exhibit 5: Land Data Comparison for Parcels 002-17-0123-0003 and 002-17-0123-0025 (subject)
    - Petitioners Exhibit 6: Pictures of properties from Petitioners Exhibit 5
    - Petitioners Exhibit 7: Improvement Comparison for Parcels 002-17-0123-0003 and 002-17-0123-0025 (subject)
    - Petitioners Exhibit 8: Builder advertisement for "Denver" model
  
    - Respondent Exhibit 1: Form 139L
    - Respondent Exhibit 2: Photograph of subject and property picture and property record card (PRC)
    - Respondent Exhibit 3: Listing of comparable properties with photos and PRCs
  
    - Board Exhibit A: Form 139 L
    - Board Exhibit B: Notice of Hearing on Petition
    - Board Exhibit C: Sign in Sheet
  - d) These Findings and Conclusions.

## Analysis

13. The most applicable laws are:
- a) A Petitioner seeking review of a determination of the 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 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.

## Valuation of Improvements

14. The Petitioners submitted pictures of fifteen (15) properties and a table containing information concerning each of those properties including: the addresses of the properties, tax numbers, whether the structures had a fireplace or porch, the land values, the improvement values and the total value for each property. *Petitioners Exhibits 3 & 4*. Richard Boer testified that the properties listed and pictured in those exhibits are prefabricated manufactured housing with the same floor plan as that of the subject. This floor plan is known as the “Denver.” *Boer testimony & Petitioners Exhibit 8*. The assessments for the structures on these properties range from \$65,500 to \$86,700. *Petitioners Exhibit 4*.<sup>1</sup>
15. Assuming that Richard Boer’s testimony that the listed houses all conform to the same floor plan were sufficient to establish comparability among those houses, the Petitioners have still failed to establish what the correct value of the subject house should be. *See Meridian Towers, supra*, 805 N.E.2d at 478. The assessments cover a range of almost \$20,000. The Petitioners’ evidence begs the question of where in that range of assessments the correct valuation of a typical “Denver” house falls.

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<sup>1</sup> Petitioners’ Exhibit 4 lists the subject property as having an assessment for “structures” in the amount of \$86,700. However, the parties agreed at the hearing that the “structures” assessment for the Subject Property pursuant to the Final Notice of Assessment is \$85,900.

16. More importantly, the Petitioners themselves identify a significant difference between the subject house and the other houses listed in Petitioners Exhibit 4 – the presence of a porch. *Boer testimony & Petitioners Exhibit 4*. The Petitioners did not present any probative evidence regarding how the porch affects the value of the subject property in comparison to the other “Denver” houses in their neighborhood.
17. The Petitioners also submitted highlighted PRCs for the subject property and for a purportedly comparable property, Parcel # 002-17-0123-0003 (“Mount Property”). The Petitioners identified both houses as being identical “Denver” structures with fireplaces.
18. However, a cursory review of the PRCs submitted by the Petitioners shows that the features of the two properties vary significantly. *Boer testimony & Petitioners Exhibits 5 and 7*. Some of those differences between the two (2) properties are as follows:
  - Subject square footage – first floor 982 square feet, second floor 615 square feet. Comparable – first floor 756 square feet, second floor 504 square feet
  - Row Type adjustment applied to the subject - .90. Applied to the comparable - .87
  - Air conditioning value applied (based on square footage) – subject \$2,100, comparable \$1,700
  - Exterior Features – subject: roof extension over concrete patio (40 square feet), overhang (6 square feet), enclosed framed porch (80 square feet), and brick patio (235 square feet). Comparable: open frame porch (32 square feet),<sup>2</sup> overhang (22 square feet) and concrete patio (54 square feet).
19. The Petitioners made no attempt to address the differences identified on the PRCs for the two properties or to explain how those differences should be accounted for in determining the respective values of those properties.
20. Consequently, the Petitioners failed to present probative evidence sufficient to establish either prong of their prima facie case concerning the valuation of the subject improvements.

### **Land Valuation**

21. The Petitioners also contended that the assessed value of the land was incorrect. In support of this position the Petitioners submitted a listing of purportedly comparable properties together with the assessed values for their respective improvements and land. *Petitioners Exhibit 4*. However, with the exception of the Mount Property, the Petitioners did not submit any information concerning the size or other distinguishing characteristics of the identified parcels of land. The Petitioners therefore failed to demonstrate that those parcels were comparable to the subject property. *See Blackbird*

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<sup>2</sup> The Petitioners did not list this property as having a porch in their summary of other Denver style houses contained in Petitioners Exhibit 4.

*Farms Apartments, LP v. Department of Local Government Finance*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002).

22. The Petitioners did present at least some evidence concerning the size of the Mount Property land as compared to the subject land. *Boer testimony, Petitioners Exhibit 5*. According to the Petitioners, the subject land is 54% of the size of the Mount Property land, but the subject land is assessed at 75% of the assessment of the Mount Property land. In the Petitioners view, this shows that the subject land was improperly assessed.
23. Once again, the Petitioners' evidence begs the question. Even assuming that the Petitioners are correct that the parcels should be valued in direct proportion to their relative difference in size, the Petitioner has not provided any evidence regarding which of the two parcels was correctly valued. Therefore, the Petitioners have not demonstrated which of the two assessments should provide the standard to which the other assessment should correlate.
24. Moreover, the Petitioners' methodology for adjusting for the difference in the size of the two parcels is flawed to the point that it lacks probative value. The Petitioners apparently contend that the difference in the values of the respective parcels should be directly proportional to their difference in size. However, the parcels were valued on a front foot basis. This basis of valuation is premised on the principle that, in many residential neighborhoods, the most important influence on the value of a parcel of land is the amount of front footage it has along a street. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, Ch. 2 at 16 (incorporated by reference at 50 IAC 2.3-1-2)(“GUIDELINES”). In such areas, the depth of a lot does not have as significant an influence on value, and the value of a lot therefore does not increase in direct proportion to increases in its depth. *See*, GUIDELINES, Ch. 2 at 52-56 (discussing the calculation of appropriate factors to apply to lots with depths departing from the standard lot for the neighborhood).
25. The Petitioners therefore have failed to establish a prima facie case for a change in the assessment of the subject land.

### **Conclusion**

26. The Petitioners failed to make a prima facie case by showing error in either the improvement assessment or the land assessment. 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: \_\_\_\_\_

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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.**