

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-01070  
**Petitioners:** Robert & Mildred Becich  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 007-26-35-0220-0064  
**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 in November 2003 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$10,300 and notified the Petitioner on March 31, 2004.
2. The Petitioners filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated September 13, 2004.
4. A hearing was held on October 13, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is a vacant parcel of land located at 1444 Calumet Avenue, Whiting, North Township.
6. The Special Master did not conduct an on-site visit of the property.
7. Assessed Value of subject property as determined by the DLGF:  
Land \$10,300 Improvements \$0 Total \$10,300
8. Assessed Value requested by Petitioners:  
Land \$2,000 Improvements \$0 Total \$2,000
9. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

10. Persons sworn in at hearing:

For Petitioners: Robert Becich, Owner  
For Respondent: David Depp, Representing the DLGF

**Issues**

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:

- a. The Petitioners contend that the subject property is over-assessed in light of its lack of street access. *Becich testimony.*
- b. The property is a gravel lot used for tenant parking and access is from the alley. *Becich testimony.* A construction company offered \$2,000 because it wants to block the front of the lots when it works on Calumet Avenue. *Becich testimony.*

12. Summary of Respondent's contentions:

After listening to the Petitioner testimony, the Respondent agreed that the lot should be valued as landlocked and that the assessment should be lowered to \$2,500. *Depp testimony.*

**Record**

13. 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. #406.
- c. Exhibits:

Petitioner Exhibits: None Provided

Respondent Exhibits: None Provided

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 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 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 Petitioners provided sufficient testimony to support the Petitioners' contentions. This conclusion was arrived at because:
- a. The Petitioners contend that the subject property is over-assessed in light of its lack of street access. *Becich testimony*.
  - b. The Petitioners did not present any evidence to quantify the effect of such lack of access on the market value-in-use of the subject property. However, the Respondent agreed that the lot should be deemed landlocked and that it should be valued at \$2,500. *Depp Testimony*.

**Conclusion**

16. The Petitioner and the Respondent agreed the property assessment was in error. 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 to \$2,500.

ISSUED: \_\_\_\_\_

\_\_\_\_\_  
Commissioner,

**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.**