

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-01239  
**Petitioners:** Roberto S. and Bertha Chavez  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 007-24-30-0629-0033  
**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 Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$73,400 and notified the Petitioner on March 31, 2004.
2. The Petitioners filed a Form 139L on April 26, 2004.
3. The Board issued a notice of hearing to the parties dated September 15, 2004.
4. A hearing was held on October 15, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is located at: 4415 E. Guadalupe Circle, East Chicago, Indiana.
6. The subject property is a single family dwelling.
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: \$15,300 Improvements: \$58,100 Total: \$73,400
9. Assessed Value of subject property as requested by Petitioner:  
Land: \$10,000 Improvements: \$50,000 Total: \$60,000

10. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

11. Persons sworn in at hearing:

For Petitioners: Roberto & Bertha Chavez, Owners

For Respondent: David Depp, Senior Appraiser, CLT

### **Issues**

12. Summary of Petitioners' contentions in support of an alleged error in the assessment:

- a) The subject property is in need of repairs and maintenance, including painting, roof and garage door replacement, and kitchen and bathroom repairs. In addition, the driveway is cracked. *R. Chavez testimony; Petitioner's Exhibit 1.*
- b) The Petitioners submitted photographs of the subject property showing exterior painting needs, the cracked driveway and the poor condition of the interior of the enclosed porch. *Petitioner's Exhibit 1.*
- c) A property located at 2735 East Guadalupe is assessed for only \$66,000 as compared to the subject property's assessment of \$73,400. The properties are the same "model" and are based on the same plans. *R. Chavez testimony.* The same is true with regard to the property located at 2715 Cardinal Drive. That property is assessed for \$68,300. *Id.*
- d) Cole-Layer-Trumble (CLT) neither entered the subject home nor left a note asking questions about the condition of the interior. *R. Chavez testimony.*

13. Summary of Respondent's contentions in support of the assessment:

- a) The Respondent presented evidence concerning the sale of comparables properties in the area to support the current assessment. Those properties sold for between \$82,000 and \$103,000 from 1998 to 2000. *Depp testimony; Respondent's Exhibit 4.*
- b) The Respondent presented the property record card and photograph of the property located at 2735 East Guadalupe. The Respondent identified numerous similarities between that dwelling and the subject dwelling, including square footage, age, grade, and the amount of depreciation applied. The Respondent also pointed out differences between the properties, including the facts that the subject property has a larger garage and an enclosed porch. *Id.; Respondent's Exhibit 5.*
- c) CLT field appraisers were not allowed to enter any homes for the reassessment. *Depp Testimony*

## Record

14. The official record for this matter is made up of the following:

- a) The Petition.
- b) The tape recording of the hearing.
- c) Exhibits:

Petitioner's Exhibit 1: Photographs of Subject Property

Petitioner's Exhibit 2: Revised 139L Issues

Respondent's Exhibit 1: Form 139L Petition

Respondent's Exhibit 2: Subject Property Record Card

Respondent's Exhibit 3: Subject Photograph

Respondent's Exhibit 4: Comparable Sales Summary, Property Record Cards &  
Photographs

Respondent's Exhibit 5: Property Record Card for 1735 E. Guadalupe

Board Exhibit A: Form 139 L

Board Exhibit B: Notice of Hearing

Board Exhibit C: Sign in Sheet

- d) These Findings and Conclusions.

## Analysis

15. The most applicable laws 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.

16. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) The Petitioners contend that properties located at 2735 East Guadalupe Circle (“Guadalupe Circle property”) and 2715 Cardinal Drive are similar to the subject property but are assessed for lower amounts. The Petitioners, however, did not present any evidence to demonstrate the comparability between those two properties and the subject property beyond their statement that the properties generally are the same “model.” Mere assertions that two properties are “similar” or “comparable” are insufficient to render the sale price or assessment of one property probative of another property’s market value. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005).
  - b) The Respondent, however, admitted that the subject dwelling is very similar to the dwelling on the Guadalupe Circle property. Nonetheless, the Respondent presented evidence that the subject property has a bigger garage than the Guadalupe Circle property and an enclosed porch. *Depp testimony; Respondent’s Exhibit 5*. Thus, the Respondent presented probative evidence supporting the difference in assessment between the two properties.
  - c) The Petitioners also contend that the subject property is in need of maintenance and repairs. The Petitioners, however, did not quantify the extent to which the need for repairs affects the market value of the subject property. The Petitioners similarly failed to explain why the condition of subject dwelling would justify a lowering of the condition rating of average currently assigned to the subject dwelling.
  - d) Based on the foregoing, the Petitioners failed to demonstrate that the current assessment is in error.

### **Conclusion**

17. The Petitioners failed to demonstrate that the current assessment is in error. 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.** 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>.