

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-016-02-1-5-00217  
**Petitioners:** Roger M. & Judith K. Grubb  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 006-27-17-0030-0005  
**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 December 2003 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$88,600 and notified the Petitioners on March 26, 2004.
2. The Petitioners filed a Form 139L petition for review on April 15, 2004.
3. The Board issued a notice of hearing to the parties dated October 15, 2004.
4. A hearing was held on November 17, 2004 in Crown Point, Indiana before Special Master Dalene McMillen.

### Facts

5. The subject property is a one-story frame dwelling with a detached garage on a 65' x 125' lot located at 916 Water Street, Hobart, Hobart Township in Lake County.
6. The Special Master did not conduct an on-site visit of the property.
7. The assessed value of the subject property as determined by the Respondent:  
Land: \$25,600                      Improvements: \$63,000                      Total: \$88,600

As requested by the Petitioners:

Land: \$15,000

Improvements: \$43,000

Total: \$58,000

8. The following persons were present and sworn in at the hearing:

For the Petitioners: Roger M. Grubb, Owner  
Judith K. Grubb, Owner

For the Respondent: Steven McKinney, Assessor/Auditor, DLGF

### **Issue**

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

- a. The Petitioners contend that the assessed value of the subject property exceeds its market value. *R. & J. Grubb testimony.*
- b. The Petitioners submitted a contract for sale of real estate indicating that Roger Grubb purchased the subject property for \$30,000 in November 1990. *Petitioners Ex. 3; R. Grubb testimony.*
- c. The Petitioners submitted two photographs of the subject property and testified that the age and condition of the dwelling and garage and the size of the lot demonstrate that current assessment is excessive. *Petitioners Ex. 4; R. Grubb testimony.*

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

- a. The Respondent testified the subject property is correctly assessed with land at \$25,600 and improvements at \$63,000 for an overall assessed value of \$88,600. *Respondent Ex.. 2; McKinney testimony.*
- b. The Respondent submitted evidence regarding three comparable properties. *McKinney testimony; Respondent ex. 4* The three comparable properties relied upon by the Respondent vary only slightly from the subject property. *Id.* The comparable properties sold for between \$83,000 to \$98,000 in 2000 and 2001. *Id.* When time-adjusted for 1999, those sale prices range from \$75,367 to \$87,759. *Id.* The Respondent contends The Respondent contends that the sales of the comparable properties demonstrate that the assessment of the subject property is fair and consistent with other properties in the same area. *McKinney argument.*

### **Record**

11. 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. #544.
- c. Exhibits:

Petitioner Exhibit 1 – A copy of the Notice of Assessment, dated March 26, 2004.

Petitioner Exhibit 2 – A copy of the Form 139L petition.

Petitioner Exhibit 3 – A copy of the contract for conditional sale of real estate between the Edna Murray Estate and Roger Grubb.

Petitioner Exhibit 4 – Two exterior photographs of the subject dwelling.

Respondent Exhibit 1 – A copy of the Form 139L petition.

Respondent Exhibit 2 – A copy of Roger Grubb’s 2002 property record card.

Respondent Exhibit 3 – A photograph of the subject dwelling.

Respondent Exhibit 4 – A sheet on the top three (3) comparable properties and the subject.

Respondent Exhibit 5 – Property record cards and photographs for comparable properties owned by the following individuals: Shelia Walker, Josephine O’Rourke and Jaime Hopkins.

- d. These Findings and Conclusions.

### **Analysis**

- 12. The most applicable cases and regulations 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 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 Insurance Company 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.

13. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because
- a) The Petitioners rely upon two photographs of the subject property and with Roger Grubb's testimony that the age and condition of the property together with the size of the lot demonstrate that the current assessment is excessive. *R. Grubb testimony; Petitioners Exhibit 4*. Mr. Grubb testified that the basement is a "very partial" basement with a laundry hook-up, furnace and concrete floor. *R. Grubb testimony*. He also testified that two-thirds of area under the house is dirt and that there is "no finish at all." *Id.* He further testified that the subject garage's roof leaks. *Id.*
  - b) Roger Grubb's general statements about the age and condition of the property are little more than conclusory statements and carry no probative value. Such statements, unsupported by factual evidence, are not sufficient to establish an error in assessment. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1119, 1120 (Ind. Tax Ct. 1998).
  - c) Roger Grubb did provide some more specific testimony concerning the leaking roof of the garage, the dirt area under the house and the layout of the basement. *Grubb testimony*. However, the Petitioners made no attempt to quantify how the conditions described by Mr. Grubb affect the market value-in-use of the subject property. Consequently, the Petitioners failed to establish a prima facie case for a reduction in assessment based upon the age or condition of the subject improvements or the size of the subject lot.
  - d) The Petitioners also presented a contract for sale of real estate indicating that Roger Grubb purchased the subject property in November 1990 for \$30,000. However, the Petitioners did not explain how that sale price relates to the value of the subject property on January 1, 1999 – the relevant valuation date for the 2002 general reassessment. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471-72 (Ind. Tax Ct. 2005)(holding that an appraisal indicating a property's value for December 10, 2003 lacked probative value in an appeal from a 2002 assessment). The Petitioners therefore failed to establish a prima facie case for a reduction in assessment based upon the 1990 purchase price for the subject property.

### **Conclusion**

14. The Petitioners failed to make a prima facie case. 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.**