

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-5-00005  
**Petitioner:** Roland Wilson  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001-25-46-0594-0029  
**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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioner and the Respondent. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$5,000 and notified the Petitioner.
2. The Petitioner filed a Form 139L on April 14, 2004.
3. The Board issued a notice of hearing to the parties dated June 22, 2004.
4. A hearing was held on August 10, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is located at: 1124 Pyramid Drive, Gary, in Calumet Township.
6. The subject property is a 28' by 118' unimproved parcel 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 \$5,000 Improvements \$0 Total \$5,000.
9. Assessed Value requested by Petitioner:  
Land \$250 Improvements \$0 Total \$250.

10. The following persons were present and sworn in at hearing:  
For Petitioner: Roland & Sandra Wilson, Property Owner  
For Respondent: David Depp, Cole-Layer-Tromble Appraiser

### **Issue**

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

In the City of Gary, a lot must be at least fifty (50) feet wide for a house to be built on it. Lots that are twenty-five (25) and thirty (30) feet wide are only for driveways and garages respectively. *R. Wilson testimony.* The lot is twenty-eight (28) feet wide and, therefore, neither a house nor a garage may be built on it. It should have a lower value. *R. Wilson testimony. Petitioner's Exhibit 1.*

12. Summary of Respondent's contentions in support of assessment:

When they received the zoning information from the township assessor, they were informed that a lot size of 6,000 square feet or with a fifty (50) frontage was needed to build. *Depp testimony.* The information also listed a twenty-five (25) foot and a thirty (30) foot classification, but no explanation for those sizes was given. If you cannot build on the lot, a 90% negative influence factor should be applied; the assessed value would be \$600. *Depp testimony.*

### **Record**

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

- a) The Petition and all subsequent pre-hearing submissions by either party.
- b) The tape recording of the hearing labeled Lake Co. #254 and #258.
- c) Exhibits:  
Petitioner Exhibit 1: Property Record Card and photograph of subject property
- d) These Findings and Conclusions.

### **Analysis**

14. The most applicable governing cases are:

1. 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).

2. 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”).
  3. 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 and the Respondent agreed that the assessed value should be lowered to \$600 to reflect a 90% influence factor for being too small to build on. *R. Wilson testimony; Depp testimony*. The Board accepts the parties’ agreement and makes no findings regarding the merits of this case.

### **Conclusion**

16. The Petitioner and the Respondent agreed on the issue. The Board accepts the agreement of the parties and finds that the assessment should be changed to conform to the agreement.

### **Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should be changed and a negative 90% influence factor applied.

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.**