

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-5-00885  
**Petitioner:** Samuel Bride  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001-25-45-0178-0032  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter. The Board 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 on February 11, 2004. The Department of Local Government Finance (the DLGF) determined that the property tax assessment for the subject property is \$100,100 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 26, 2004.
3. The Board issued a notice of hearing to the parties on August 31, 2004.
4. Special Master Peter Salveson held the hearing in Crown Point on October 5, 2004.

### Facts

5. The subject property is located at 4788 Washington, Gary. The location is in Calumet Township.
6. The subject property is a single-family home on .142 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed value of the subject property as determined by the DLGF:  
Land \$8,400                      Improvements \$91,700
9. Assessed value requested by the Petitioner on the Form 139L:  
Land \$6,400                      Improvements \$40,000

10. Persons sworn as witnesses at the hearing:  
For Petitioner – Samuel Bride, Owner  
For Respondent – Larry Vales, Staff Appraiser, Cole-Layer-Trumble

### **Issue**

11. Summary of Petitioner’s contentions in support of alleged error in assessment:
- a) The assessment of the subject property is too high when compared to the purchase price of the property, which was \$38,000 in July 1996. *Bride Testimony; Petitioner Exhibit A.*
  - b) The assessment of the subject property is too high in comparison to assessment of other properties in the neighborhood. The comparable properties are in average condition with a 45 percent factor applied in the “Cmp” column, with the exception of one property that is fair and has a 65 percent factor applied. These properties are all similar to the subject, which has a good condition rating. *Bride Testimony; Petitioner Exhibit B.*
  - c) The assessment of the subject property is higher than other properties in neighborhood that are in better condition than the subject property. *Bride Testimony; Petitioner Exhibits B, C.*
12. Summary of Respondent’s testimony:
- a) The 20 percent depreciation factor used on the subject property is based on the condition of the subject property. *Vales Testimony.*
  - b) After reviewing the three comparable sales, the Respondent stated that the subject property appeared to be assessed higher than market value. *Vales Testimony; Respondent Exhibits 4, 5.*
  - c) The subject property should be assessed at \$50.90 per square foot based on comparable sales. The subject property should have a total assessed value of \$64,700. *Vales Testimony.*

### **Record**

13. The official record for this matter is made up of the following:
- a) The Petition,
  - b) The tape recording of the hearing labeled Lake Co. 502,

- c) Exhibits:
- Petitioner Exhibit A: Appraisal of Subject Property,
  - Petitioner Exhibit B: Subject property record card with photo and comparable property record cards with photos,
  - Petitioner Exhibit C: Comparable property reassessment statements,
  - Petitioner Exhibit D: Tax and Insurance Account Disclosure Statement,
  - Respondent Exhibit 1: Form 139L Petition,
  - Respondent Exhibit 2: Subject property record card,
  - Respondent Exhibit 3: Subject photo,
  - Respondent Exhibit 4: Comparable sales summary sheet,
  - Respondent Exhibit 5: Comparable property record cards and photos,
  - Board Exhibit A: Form 139L Petition,
  - Board Exhibit B: Notice of Hearing,
  - Board Exhibit C: Sign in sheet,
- d) These Findings and Conclusions.

### Analysis

14. The most applicable governing cases are:
- a) A petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving, by preponderance of the evidence, 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. 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. There is sufficient evidence and testimony to support the Petitioner's contentions. The Respondent did not rebut the Petitioner's testimony and evidence. This conclusion was arrived at because:
- a) The evidence established that the property is over-assessed when compared to similar properties in the neighborhood. *Bride Testimony; Petitioner Exhibits B, C.*

- b) The comparable sales presented by the Respondent supported the Petitioner's contention that the assessment of the subject property is incorrect. *Respondent Exhibits 4, 5.*
- c) The Respondent recommended that the subject property be valued at \$50.90 per square foot based on comparable sales and their average time-adjusted square foot value. *Vales Testimony; Respondent Exhibits 4, 5.*
- d) The Respondent and Petitioner agreed that the subject property should have a total value for land and improvements of \$64,700.

### **Conclusion**

16. The Petitioner did establish a prima facie case. The Respondent's evidence and testimony supported the Petitioner's case. The Board finds in favor of the Petitioner. The total assessed value of the subject property should be changed to \$64,700.

### **Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should be changed.

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

\_\_\_\_\_  
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.**