

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #s:** 45-012-02-1-5-00013  
45-012-02-1-5-00014  
**Petitioners:** Sigmund & Karen Krebs  
**Respondent:** Department of Local Government Finance  
**Parcel #s:** 004-04-05-0042-0012  
004-04-05-0042-0018  
**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 on April 15, 2004. The Department of Local Government Finance (the "DLGF") determined that the assessments for the subject properties were \$17,800 and \$18,200. The DLGF notified the Petitioners on March 23, 2004.
2. The Petitioners filed a Form 139L on April 20, 2004.
3. The Board issued a notice of hearing to the parties dated October 1, 2004.
4. Special Master Kathy J. Clark held the hearing in Crown Point on November 4, 2004.

### Facts

5. The subject properties are located at 16712 Mississippi Street, Lowell. The location is in Eagle Creek Township.
6. The subject properties consist of 1) 20 acres with 19.5 acres of farmland and .5 acre designated public roadway, and 2) 20 acres with 18.5 acres of farmland and 1.5 acres designated public roadway.
7. The Special Master did not conduct an on-site visit of the property.
8. The DLGF determined the assessed values of these two parcels are \$17,800 and \$18,200.
9. The Petitioners requested assessed values to be \$15,000 and \$16,000.

10. Persons in attendance and sworn as witnesses at the hearing:  
For Petitioners — Sigmund Krebs, Owner,  
For Respondent — Anthony Garrison, Assessor/Auditor.

### **Issue**

11. The Petitioners contend that approximately one acre on each parcel floods occasionally and they cannot get a crop from it. *Krebs testimony*.
12. Summary of the Respondent's contentions in support of the assessments:
- a) Parcel number 004040500420012 contains 1.50 acres of land that is designated Land Type 43, which is Farmed Wetlands. It is receiving a 50 percent deduction for partial use due to flooding. *Respondent Exhibit 2, page 1; Garrison testimony*.
  - b) Parcel number 004040500420018 contains 1.00 acre that is designated Land Type 43, which is Farmed Wetlands. It is receiving a 50 percent deduction for partial use due to flooding. *Respondent Exhibit 2, page 2; Garrison 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 County 557,
  - c) Exhibits:  
Petitioner presented no exhibits,  
Respondent Exhibit 1 — Form 139L petitions,  
Respondent Exhibit 2 — Subject property record cards,  
Board Exhibit A — Form 139L petitions,  
Board Exhibit B — Notices 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 that the current assessment is incorrect, and specifically what the correct assessment should 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.
15. The Petitioners did not provide probative evidence to support their contention that the land assessment is incorrect. This conclusion was arrived at because:
- a) The Petitioners did not submit any documentation that would allow the Board to determine exactly how many measured acres, or parts thereof, were involved in the partial year flooding. There was also no documentary evidence submitted to support the Petitioners’ claims that the occasional flooding affected the value of the properties to any greater extent than has already been recognized by the assessment.
  - b) The parcel ending in #0012 has a negative influence factor for occasional flooding applied to 1.50 acres and the parcel ending in #0018 has the same influence factor for 1.00 acre. There is no probative evidence that more of the land has a flooding issue that reduces value. Therefore, Petitioners failed to meet their burden to prove the current assessment is wrong and they failed to prove what the correct assessment should be. *Id.* at 478.

**Conclusions**

16. The Petitioners failed to make a prima facie case. The Board finds in favor of Respondent.

**Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the value 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.**