

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-00682  
**Petitioner:** Thirlie R. Cunningham  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 007243006270001  
**Assessment Year:** 2002

The Indiana Board of Tax Review (“Board”) issues this determination in the above matter. It finds and concludes as follows:

### Procedural History

1. The informal hearing described in Ind. Code § 6-1.1-4-33 was held on January 8, 2004. The Department of Local Government Finance (“DLGF”) determined that the assessment for the subject property was \$140,600 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 28, 2004.
3. The Board issued a notice of hearing to the parties dated September 17, 2004.
4. Special Master Dalene McMillen held the hearing on October 19, 2004, at 11:10 a.m. in Crown Point.
5. The subject property is located at 2680 Evergreen Lane, East Chicago, North Township in Lake County.
6. The subject property is a one-story brick dwelling located on a lot that measures 100 feet by 119 feet.
7. The Special Master did not conduct an on-site visit of the property.
8. The assessed value of the subject property as determined by the DLGF:  
Land \$27,600                      Improvements \$113,000                      Total \$140,600.
9. The assessed value requested by the Petitioner on her 139L petition:  
Land \$10,000                      Improvements not specified                      Total \$10,000.

10. The following persons were sworn as witnesses at the hearing:  
For the Petitioner — Thirlie R. Cunningham, owner,  
For the DLGF — Sharon S. Elliott, Staff Appraiser, Cole-Layer -Trumble.

### **Issues**

11. Summary of Petitioner's contentions in support of alleged error in assessment:
- a. The assessed value of the land exceeds the market value. *Cunningham testimony.*
  - b. The subject property was purchased in 1977 for \$6000. *Cunningham testimony.*
  - c. The value of her property should be \$9000. *Cunningham testimony.*
12. Summary of Respondent's contentions in support of assessment:
- a. The subject property is valued with same base land rate as the adjoining lots in the neighborhood. *Respondent Exhibit 2; Elliott testimony.*
  - b. It received a negative influence factor of 30 percent due to excessive frontage. *Elliott 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. 284,
  - c. The following exhibits were presented:
    - Petitioner Exhibit 1 – A copy of the real property maintenance record for Thirlie Cunningham reflecting the 2002 assessed value,
    - Petitioner Exhibit 2 – A copy of the real property maintenance record for with the 2001 assessed value,
    - Respondent Exhibit 1 – A copy of the Form 139L petition,
    - Respondent Exhibit 2 – A copy of the property record card,
    - Respondent Exhibit 3 – A photograph of the subject property,
    - Respondent Exhibit 4 – A sheet of the top 20 comparables and statistics with property record cards and photographs,
    - Board Exhibit A – Form 139L,
    - Board Exhibit B – Notice of Hearing,
    - Board Exhibit C – Hearing 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 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.
15. The Petitioner did not provide sufficient evidence to support her contentions. This conclusion was arrived at because:
- a. The Petitioner did not present any probative evidence proving that the current assessment is incorrect and that the correct assessment of land should be \$9,000. The Petitioner merely made a conclusory statement that the current assessment is excessive and that the correct assessment should be \$9,000 as it was for the 2001 assessment year. Conclusory statements do not constitute probative evidence and are not sufficient to establish a prima facie case. *CDI, Inc. v. State Bd. of Tax Comm'rs*, 725 N.E.2d 1015, 1019 (Ind. Tax Ct. 2000).
  - b. When Petitioner fails to make a prima facie case, Respondent’s burden to support the assessment is not triggered. *Lacy Diversified Indus. v. Dep’t of Local Gov’t Fin.*, 799 N.E.2d 1215, 1222 (Ind. Tax Ct. 2003); *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998) (stating that taxpayer must do more than simply alleging an error exists to trigger the substantial evidence requirement).

## Conclusion

16. The Petitioner failed to make a prima facie case regarding any valuation error on her 2002 assessment. 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: \_\_\_\_\_

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