

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-00565  
**Petitioner:** Thomas Medina  
**Respondent:** The Department of Local Government Finance  
**Parcel #:** 007-26-34-0238-0002  
**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. Because the Petitioner did not receive notice, no informal hearing as described in Ind. Code § 6-1.1-4-33 was held. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property was \$95,800.
2. The Petitioner filed a Form 139L on April 20, 2004.
3. The Board issued a notice of hearing to the parties dated April 18, 2005.
4. Special Master Kathy J. Clark held a hearing at 8:15 A. M. on May 18, 2005, in Crown Point, Indiana.

### Facts

5. The subject property is located at 1648 Indianapolis Boulevard, Whiting. The location is in North Township.
6. The subject property consists of a one story, frame, single-family residence.
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 \$14,900                      Improvements \$80,900                      Total \$95,800.
9. Assessed value requested by Petitioner is:  
Land \$14,900                      Improvements \$70,900                      Total \$85,800.

10. Persons sworn in as witnesses at the hearing:  
Thomas Medina, Owner,  
Phillip E. Raskosky, II, Assessor/Auditor, Department of Local Government Finance.

### **Issues**

11. Summary of Petitioner's contentions in support of an error in the assessment:
  - a. The assessment includes a wood deck at the rear of the dwelling which does not exist. *Petitioner Exhibit 1; Medina testimony.*
  - b. The assessment also includes an above ground pool that was removed in the spring of 2002. *Medina testimony.*
  - c. What is being assessed as a car shed is actually just a wooden awning with supports that was going to be enclosed as a shed at one time but is currently used only as a gardening work area for Mrs. Medina. When the Petitioner found an 8' by 5' metal shed that is only 5' high, it was placed under the awning for storage and plans to enclose the 9' by 20' area were dropped. *Petitioner Exhibit 2; Medina testimony.*
12. Summary of Respondent's contentions:
  - a. The Petitioner's photographs obviously show that no wood deck exists; it should be removed from the assessment. *Petitioner Exhibit 1; Raskosky testimony.*
  - b. The car shed meets the state requirements for such a structure and should remain on the assessment as is. *Petitioner Exhibit 2; Raskosky testimony.*
  - c. The small metal shed noted in the photographs and described by the Petitioner is below assessment standards in size and should not be added to the assessment. *Petitioner Exhibit 2; Raskosky testimony.*
  - d. The photographs presented by the Petitioner show that there is no open frame porch. *Petitioner Exhibit 1.* The drawing of Section C on the subject property record card should be removed and the assessed value for same should be removed from the exterior features section of the assessment. *Respondent Exhibit 2.* The first floor finished living area of the dwelling is already being correctly assessed at 924 square feet, this should remain the same. *Id; Raskosky testimony.*
  - e. The Petitioner has confirmed that there are permanent stairs to the finished attic area so this is being correctly assessed at this time. *Respondent Exhibit 2; Raskosky 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 1592,
  - c. Exhibits:
    - Petitioner Exhibit 1: Photographs showing no rear deck exists,
    - Petitioner Exhibit 2: Photographs showing no car shed exists,
    - Respondent Exhibit 1: Subject property record card,
    - Respondent Exhibit 2: Subject photograph,
    - Respondent Exhibit 3: Plat map page,

- Respondent Exhibit 4: Comparable sales list, property record cards and photographs of comparables,  
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 provided sufficient evidence to establish a prima facie case. This conclusion was arrived at because:
- a. The Petitioner proved that there is no wood deck on the property. The Board finds for the Petitioner. The wood deck should be removed from the assessment.
  - b. The Board finds for the Respondent regarding the car shed. It meets the structure requirements as set forth in the 2002 REAL PROPERTY ASSESSMENT GUIDELINES, VERSION A, App. C, Schedule E.2. As the structure exists, this is the closest pricing schedule for determining value-in-use found within the guidelines. The assessment for the car shed should remain.
  - c. The subject property’s assessment does not currently include value for the 8’ by 5’ metal shed shown in Petitioner’s Exhibit 2. The Board agrees with the Respondent that it should not be added to the assessment due to its size.
  - d. The Respondent identified that the subject is being incorrectly assessed as having an open frame porch of 104 square feet. *Respondent Exhibit 2*. This should be removed from the sketch and the value should be removed from the assessment.
  - e. The Respondent verified that the dwelling’s true measurements are 22’ by 42’ or 924 square feet of first floor living area. The subject is correctly assessed for this and this part of the assessment should remain unchanged.
  - f. When questioned, the Petitioner testified that the above ground pool was not removed from the subject property until after the lien date of March 1, 2002. The assessment for the above ground pool should remain for the 2002 assessment year.

### **Conclusion**

16. The Petitioner established a prima facie case. The Board determines the following changes be made:  
Remove the wood deck,  
Remove the value for the 104 square foot open frame porch.  
All other areas of the assessment should remain as they are.

### **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: \_\_\_\_\_

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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. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code § 4-21.5-5-7(b)(4), § 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>, The Indiana Trial Rules are available on the Internet at [http://www.in.gov/judiciary/rules/trial\\_proc/index.html](http://www.in.gov/judiciary/rules/trial_proc/index.html). The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.