

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-028-02-1-5-00323  
**Petitioners:** Thomas & Margie Johnson  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 008-24-22-0002-0032  
**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 December 15, 2003. The Department of Local Government Finance (the "DLGF") determined that the assessment for the subject property was \$129,600 and notified the Petitioner on March 31, 2004.
2. The Petitioners filed a Form 139L on April 14, 2004.
3. The Board issued a notice of hearing to the parties dated August 9, 2004.
4. Special Master Michael R. Schultz held the hearing in Crown Point on September 22, 2004.

### Facts

5. The subject property is located at 7701 E. Miller Lane, Hobart.
6. The subject property is a ranch style, single family dwelling on 4.48 acres of land.
7. The Special Master did not conduct an on-site visit of the property.
8. The assessed value of subject property as determined by the DLGF:  
Land \$42,600      Improvements \$87,000      Total \$129,600.
9. The Petitioners did not request a specific assessed value.
10. The following persons were present and sworn as witnesses at the hearing:  
For Petitioners – Thomas Johnson, Jr., property owner,  
For Respondent – Sharon Elliott, Staff Appraiser, Cole-Layer-Trumble.

## **Issue**

11. Summary of Petitioners' contentions in support of alleged error in assessment:
  - a) The subject property drops off 25 to 30 feet from the level portion of the homesite. *Johnson testimony; Petitioner Exhibit 2, photos 3, 4.*
  - b) The 3.5 acres of the lower portion is wet and is often completely covered with water. *Johnson testimony; Petitioner Exhibit 2, photos 5, 7, 8.*
  - c) The land should not be assessed as flat buildable excess acreage. Petitioners will accept the application of a negative 25 percent influence factor to reflect the topography of the 3.48 acres of residential excess acreage. *Johnson testimony.*
  
12. Summary of Respondent's contentions in support of assessment:
  - a) In consideration of the topography of the subject property, Respondent offers to apply a negative 25 percent influence factor to the land value for the 3.48 acres identified as excess residential acreage. *Elliott testimony.*
  - b) With the negative influence factor, the total land value will change from \$42,600 to \$39,000. The new total assessment will be \$126,000. *Elliott testimony; Respondent Exhibit 6.*

## **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 299.
  - c) Petitioner Exhibit 1: Subject property record card ("PRC"),  
Petitioner Exhibit 2: Photographs of subject property, numbered 1 – 8,  
Respondent Exhibit 1: Form 139L Petition,  
Respondent Exhibit 2: Subject PRC,  
Respondent Exhibit 3: Subject photograph,  
Respondent Exhibit 4: Comparable sheet.  
Respondent Exhibit 5: Comparable photographs and PRC's,  
Respondent Exhibit 6: Corrected PRC for the subject property.
  - 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. There is sufficient evidence to support the Petitioners’ contentions. This conclusion was arrived at because the parties agreed that 3.48 acres identified as excess residential acreage should be valued with the application of a negative 25 percent influence factor for the topography. The parties agreed that the total land value would be \$39,000 and the total assessment for land and improvements would be \$126,000. *Johnson testimony; Elliott testimony.*

## Conclusion

16. The Petitioner made a prima facie case that the Respondent did not rebut. The Board finds in favor of the Petitioner.

## 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.**