

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-00215  
**Petitioner:** Toni K. Beck  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 007-16-27-0544-0009  
**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 Department of Local Government Finance (the DLGF) made an administrative change to the assessment determining that the Petitioner's property tax assessment for the subject property was \$215,700 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 23, 2004
3. The Board issued a notice of hearing to the parties dated November 10, 2004.
4. Special Master Peter Salveson held a hearing on December 14, 2004, in Crown Point, Indiana.

### Facts

5. The subject property is located at 9011 Price Place, Highland. The location is in North Township
6. The subject property is a single-family home on 0.220 acres of land.
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 \$22,500            Improvements \$193,200            Total \$215,700.
9. Assessed value requested by Petitioner:  
Land \$22,200            Improvements \$165,100            Total \$187,300.
10. Persons sworn in as witnesses at the hearing:

Toni K. Beck, Owner  
Diane Spenos, DLGF Hearing Officer

### Issues

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
  - a. The Petitioner contends that the current assessment is incorrect because the subject is adjacent to commercial property and near a retention pond. *Beck testimony.*
  - b. The Petitioner contends that the assessment was incorrectly changed from \$165,100 to the current assessment. *Beck testimony.*
  - c. The Petitioner contends that the current neighborhood factor is different than other properties in the same neighborhood and the subject's assessment is incorrect compared to other assessments in the same neighborhood as the subject property. *Beck testimony; Petitioner Exhibit 4.*
  - d. The Petitioner testified that the subject property was purchased for \$168,000 in January 1997. *Beck testimony; Petitioner Exhibit 5.*
  
12. Summary of Respondent's contentions in support of the assessment:
  - a. The Respondent testified that the neighborhood factor had been changed which resulted in an increase in assessment. *Spenos Testimony.*
  - b. The Respondent contended that most of the comparable assessments presented by the Petitioner were smaller than the subject property. *Spenos Testimony*
  - c. Based on the testimony and other evidence presented by the Petitioner, the Respondent recommends that the assessment be changed to reflect the purchase price of the subject trended to the January 1, 1999, valuation date. *Spenos 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 1121,
  - c. Exhibits:
    - Petitioner Exhibit 1: Form 139L Petition,
    - Petitioner Exhibit 2: Summary of Arguments,
    - Petitioner Exhibit 3: Outline of Evidence,
    - Petitioner Exhibit 4-1: Street Plat,
    - Petitioner Exhibit 4-2 – 4-12: Valuation records of all homes on Price Place,
    - Petitioner Exhibit 4-13: Photos,
    - Petitioner Exhibit 5: Closing Statement for purchase of subject property,
    - Respondent Exhibit 1: Form 139L Petition,
    - Respondent Exhibit 2: Subject property record card,
    - Respondent Exhibit 3: Subject property photo,
    - Respondent Exhibit 4: Comparable Sales Sheet,
    - Respondent Exhibit 5: Comparable property record cards & photos,
    - Respondent Exhibit 6: Height Design,
    - Respondent Exhibit 7: Maps,

- 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 at 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 provide sufficient evidence to support the Petitioner's contentions. The Respondent did not rebut the Petitioner's testimony and other evidence. This conclusion was arrived at because:
- a. The Petitioner showed that the neighborhood factor had been changed and that this factor was different than other properties on the same street, but she did not show that the current neighborhood factor was incorrect.
  - b. The Petitioner did not show how the proximity of commercial property or a retention pond affected the value of the subject property or that these factors were not considered in the current assessment.
  - c. However, the Petitioner established that the subject property was purchased for \$162,000 in January 1997. The Respondent did not rebut this evidence and recommended that the purchase price be time adjusted to the valuation date of January 1, 1999.

### **Conclusion**

16. The Petitioner made a prima facie case. The Respondent recommended that the assessment be changed. The Board finds in favor of Petitioner and concludes that the assessment be changed to equal the purchase price of \$162,000, time-adjusted to the January 1, 1999, valuation date.

## 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>.