

**INDIANA BOARD OF TAX REVIEW**

**Final Determination  
Findings and Conclusions  
Lake County**

**Petition #s:** 45-032-02-1-5-00385      **Parcel #'s:** 009201307290001  
45-032-02-1-5-00385A      009201307290002  
45-032-02-1-5-00386      009201307290004

**Petitioners:** Trinidad and Linda Martinez  
**Respondent:** Department of Local Government Finance  
**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 January 7, 2004 in Lake County. The Department of Local Government Finance (DLGF) determined the Petitioners' property tax assessment for the subject properties and notified the Petitioners on March 26, 2004.
2. The Petitioners filed the Form 139L petitions on April 26, 2004.
3. The Board issued notices of hearing to the parties dated February 25, 2005.
4. A hearing was held on March 30, 2005, in Crown Point, Indiana before Special Master Jennifer Bippus.

**Facts**

5. The subject properties consist of three condominium units located in a four unit building. The subject properties are located at 208, 210, and 212 Plum Creek Drive, Schererville in St. John Township.
6. The Special Master did not conduct an on-site visit of the properties.
7. Assessed Values of subject properties as determined by the DLGF:

Petition #	Parcel #	Improvements
45-032-02-1-5-00385	009201307290001	\$100,300
45-032-02-1-5-00385A	009201307290002	\$100,300
45-032-02-1-5-00386	009201307290004	\$100,300

Each condominium unit is valued at \$87,500 plus \$12,800 for the common area for a total value of \$100,300 for each of the subject properties.

8. Assessed Value requested by the Petitioners on the Form 139L petitions is:

Petition #	Parcel #	Improvements
45-032-02-1-5-00385	009201307290001	\$85,000
45-032-02-1-5-00385A	009201307290002	\$83,000
45-032-02-1-5-00386	009201307290004	\$83,000

9. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearings.

10. Persons sworn in at hearing:

For Petitioners: Trinidad Martinez, Taxpayer  
Steven Martinez, Son of Taxpayer, Witness

For Respondent: Stephen Yohler, DLGF Representative

#### Issue

11. Summary of Petitioners' contentions in support of alleged errors in assessment:

a) The assessments are too high based on appraisals and the sale of one of the units in the building. *S. Martinez testimony.*

b) The Petitioners own three units of a four unit condominium building. The subject properties were originally apartments. *S. Martinez testimony.*

c) The Petitioners' units are as follows:

Petition #	Parcel #	Address	Unit
45-032-02-1-5-00385	009201307290001	210 Plum Creek Drive	1A
45-032-02-1-5-00385A	009201307290002	208 Plum Creek Drive	1B
45-032-02-1-5-00386	009201307290004	212 Plum Creek Drive	2B

*T. Martinez testimony.*

d) The fourth unit in the building, known as unit 2A was sold in May 2002. Unit 2A sold for \$93,500. Unit 2A is identical to the other units in the building; the only difference between the units is the garages. Units 2A, 2B, and 1B have single car garages. Unit 1A has a two car garage. *S. Martinez testimony; Pet'r Ex. 1.*

e) The Petitioners' presented two appraisals for the subject properties. One appraisal was done for the units 2B and 1B which have one car garages. It was not necessary to do two appraisals because the units are identical. The other appraisal is for unit 1A which has a two car garage. *S. Martinez testimony; Pet'r Ex. 2, 3.*

- f) The appraisals were prepared by a Certified General Appraiser on March 24, 2005, and estimate the market value of the subject properties as of December 31, 1999. The appraiser used four comparables, three of which are from the same street and subdivision. The appraisal for unit 1A, the unit with a two car garage, estimates the market value to be \$86,500 as of December 31, 1999. The appraisal for unit 1B, the unit with the one car garage, estimates the market value to be \$84,000 as of December 31, 1999. Unit 1B is identical to unit 2B and should also be valued as \$84,000. *S. Martinez testimony; Pet'r Ex. 2, 3.*
  - g) Unit 2A which sold for \$93,000 in 2002 is identical to units 1B and 2B. Units 1B and 2B are appraised at \$84,000 as of 12/31/99. This shows a 3% to 4% appreciation in the market. *S. Martinez testimony.*
  - h) The assessed value should reflect the estimated market value based on the appraisals of \$84,000 for units 1B and 2B and \$86,500 for unit 1A. *S. Martinez testimony.*
12. Summary of Respondent's contentions in support of assessment:
- a) Respondent Exhibit 4 is the tie back card showing the assessed value for the whole building. The land is included in the value at \$28,200 and the detached garages are included at \$22,800. *Yohler testimony; Resp't Ex. 4.*
  - b) The common area listed on the property record cards for each condominium unit is the land and garages divided by four (4). *Yohler testimony.*
  - c) The property record cards for each unit show the assessment at \$100,300 per unit. The assessment has been done correctly. *Yohler testimony; Resp't Exs. 2, 4.*

### **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 #1335.
  - c) Exhibits:

Petitioner Exhibit 1: Residential listing and sale of comparable condominium.

Petitioner Exhibit 2: Appraisal for unit 1A.

Petitioner Exhibit 3: Appraisal for unit 1B.

Respondent Exhibit 1: Form 139L petitions.

Respondent Exhibit 2: Property Record Card (PRC) of subject properties.

Respondent Exhibit 3: Subject properties photograph.

Respondent Exhibit 4: Tie back PRC for condo units.

Board Exhibit A: Form 139L petitions  
Board Exhibit B: Notices of Hearing  
Board Exhibit C: Hearing Sign in Sheet

d) These Findings and Conclusions.

### Analysis

14. The most applicable governing cases and regulations 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 Township 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 Township 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 provided sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) The assessments are too high based on appraisals and the sale of one of the units in the building. The Petitioners presented two appraisals; one appraisal for unit 1B and one for unit 1A.
  - b) Real property in Indiana is assessed on the basis of its “true tax value.” *See I.C. § 6-1.1-31-6(c)*. “True tax value” is defined as “[t]he market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (2001 (incorporated by reference at 50 IAC 2.3-1-2)(hereinafter “Manual”)
  - c) The Manual further provides that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. MANUAL at 4. Consequently, in order to present evidence probative of a property’s true tax value, a party relying on an appraisal should explain how the value estimated by an appraisal of the subject property

relates the property's value as of January 1, 1999. *See Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005). In this case, the appraisals demonstrates substantial compliance with the valuation date and *Long. Id.*

- c) Both appraisals estimate the market value the subject properties as of December 31, 1999. The appraisal for unit 1A, the unit with a two car garage, estimates the market value to be \$86,500. The appraisal for unit 1B, the unit with the one car garage, estimates the market value to be \$84,000. Because unit 2B is identical to unit 1B, unit 2B should also be valued as \$84,000.
- d) The appraisals constitute probative evidence both that the current assessments are incorrect and that the amounts requested by the Petitioners are the correct assessments. Thus, the Petitioners have established a prima facie case.
- e) The burden shifted to the Respondent to rebut the Petitioners' evidence. The Respondent presented property record cards and a tie back card for the subject properties in support the current assessments. The Respondent did not present any evidence to rebut the Petitioners' evidence.
- f) The best evidence of value is the appraisals presented by the Petitioners. Based on the appraisals the assessed values should be as follows:

Petition #	Parcel #	Unit	Assessed Value
45-032-02-1-5-00385	009201307290001	1A	\$86,500
45-032-02-1-5-00385A	009201307290002	1B	\$84,000
45-032-02-1-5-00386	009201307290004	2B	\$84,000

### Conclusion

- 16. The Petitioners established a prima facie case. The Respondent did not rebut the Petitioners' evidence. The Board finds in favor of the Petitioners.

### Final Determination

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