

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-5-00908  
**Petitioners:** Veselin M. & Karen D. Lukovic  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001-25-40-0087-0028  
**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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held on December 13, 2003. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$38,100 and notified the Petitioners on April 1, 2004.
2. The Petitioner filed a Form 139L on April 29, 2004.
3. The Board issued a notice of hearing to the parties on August 31, 2004.
4. A hearing was held on October 6, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is a residential rental home located at 524 East 46<sup>th</sup> Avenue, Gary, in Calumet Township.
6. The Special Master did not conduct an on-site visit of the property.
7. Assessed Value of the subject property as determined by the DLGF:  
Land \$3,100 Improvements \$35,000 Total \$38,100  
  
Assessed Value requested by the Petitioners: Total \$22,000
8. The following persons were present and sworn in at the hearing:

For Petitioner: Milos Lukovic, Father of Owner  
For Respondent: David Depp, Representing the DLGF

### **Issues**

10. Summary of Petitioners' contentions in support of alleged error in assessment:
- a. The Petitioners submitted an appraisal estimating the market value of the subject property to be \$22,000 as of March 1, 2002. *Petitioners' Exhibit 1.*
  - b. The houses at either end of the subject property are abandoned. *Lukovic testimony; Petitioner's Exhibit 2.*
11. Summary of Respondent's contentions in support of assessment:
- The Respondent presented a list of comparable sales for homes of similar type and condition in support of the current assessment. *Respondent's Exhibit 4.*

### **Record**

12. 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. #423.
  - c. Exhibits:
    - Petitioners' Exhibit 1: March 2002 Appraisal
    - Petitioners' Exhibit 2: Photocopy of three photographs of subject property
  
    - Respondent's Exhibit 1: Form 139L
    - Respondent's Exhibit 2: Subject property record card
    - Respondent's Exhibit 3: Photograph of the subject property
    - Respondent's Exhibit 4: Comparable Sales Summary Sheet and property record cards and photographs of each
  
    - Board Exhibit A: Form 139 L
    - Board Exhibit B: Notice of Hearing
    - Board Exhibit C: Sign in Sheet
  - d. These Findings and Conclusions.

## Analysis

13. 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 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.
14. The Petitioners did not present sufficient evidence to support their contentions. This conclusion was arrived at because:<sup>1</sup>
  - a. The Petitioners rely upon an appraisal estimating the market value of the subject property to be \$22,000 as of March 1, 2002.
  - b. The 2002 Real Property Assessment Manual (hereinafter "Manual") provides that for the 2002 general reassessment, a property's assessment must reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on an appraisal performed substantially after that date must provide some explanation as to how the appraised value demonstrates or is relevant to the subject property's value as of January 1, 1999. *See Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (holding that an appraisal indicating the value for a property on December 10, 2003, lacked probative value in an appeal from the 2002 assessment of that property).

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<sup>1</sup> The Petitioners, Veselin M. and Karen D. Lukovic, were not present at the hearing. The Petitioners did not submit a notarized power of attorney authorizing Milos Lukovic to represent them, and Milos Lukovic did not present any evidence that he is a certified tax representative authorized to practice before the Board. *See* 52 IAC 1-1-6; 52 IAC 1-2-1. The evidence and arguments presented by Milos Lukovic on the Petitioners' behalf are, in essence, a nullity and the Petitioners' failure to appear at the hearing in person or by authorized representative subjects their case to dismissal. The Board, however, recognizes that the Respondent did not object to Milos Lukovic's participation in the hearing, and that resolution of the case on the merits ultimately leads to the same result – that the assessment should not be changed. The Board therefore addresses the merits of the Petitioners' claims.

- c. The Petitioners' appraisal values the subject property as of March 1, 2002 – more than three years after the relevant valuation date of January 1, 1999. The Petitioners did not provide any explanation to relate the appraised value to the subject property's market value as of the relevant valuation date.
- d. Milos Lukovic also presented evidence that houses located near the subject property are abandoned and that one of the houses is “boarded up.” *Lukovic testimony; Petitioner's Exhibit 2*. Lukovic, however, did not present any evidence to quantify the effect of those facts on the market value-in-use of the subject property.
- e. Based on the foregoing, the Petitioners failed to present a prima facie case of error in the current assessment.

### **Conclusion**

- 16. The Petitioners failed to establish a prima facie case. 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 petition is denied and the assessment should not 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>.