

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-00126  
**Petitioner:** Virginia Jean Kubicko  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 007263600050023  
**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 March 8, 2004. The Department of Local Government Finance ("DLGF") determined that the Petitioner's property tax assessment for the subject property was \$107,500. The DLGF notified the Petitioner on March 31, 2004.
2. The Petitioner filed Form 139L on April 30, 2004.
3. The Board issued a notice of the hearing to the parties on September 14, 2004.
4. A hearing was held on October 14, 2004, in Crown Point, Indiana before Special Master Kathy J. Clark.

### Facts

5. The subject property is located at 1428 Amy Court, Whiting, in North Township.
6. Subject property is a one story, brick, bungalow style, single-family dwelling. The lot has 30 feet of frontage and is 117 feet deep.
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 \$12,800                      Improvements \$94,700                      Total \$107,500
9. Assessed Value requested by the Petitioner:  
Land \$12,800                      Improvements \$80,000                      Total \$92,800

10. The following persons were present and sworn as witnesses at the hearing:  
For Petitioner — Virginia Jean Kubicko, Owner,  
For Respondent — Sharon S. Elliott, Staff Appraiser, Cole-Layer-Trumble  
Gary Brown, DLGF Observer.

### **Issues**

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
- a. The windows and doors are original and need to be replaced. *Petitioner Exhibit 1, photograph 1; Kubicko testimony.*
  - b. The bathroom has never been updated. The tiles are cracked and the shower does not work. *Petitioner Exhibit 1, photographs 2, 3, 4, 5, 6; Kubicko testimony.*
  - c. The furnace is approximately 40 years old. *Kubicko testimony.*
  - d. It has been at least 40 years since the kitchen has been remodeled. *Kubicko testimony.*
12. Summary of Respondent's contentions in support of changes to the assessment:
- a. The three comparable sales pulled for the sales analysis show dwellings similar in age, size and style to the subject. All three are listed in average condition and show selling prices from \$103,000 to \$122,000. *Respondent Exhibit 4; Elliott testimony.*
  - b. As a result of the Petitioner's testimony and after viewing the photographs presented, the subject dwelling would be better described as being in fair condition, rather than average condition. *Petitioner Exhibit 1; Elliott 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 Co. 462,
  - c. Exhibits:
    - Petitioner Exhibit 1: Six photographs to show condition,
    - Respondent Exhibit 1: Form 139L petition,
    - Respondent Exhibit 2: Subject property record card,
    - Respondent Exhibit 3: Subject photograph,
    - Respondent Exhibit 4: Comparable sales analysis with property record cards and photographs of comparables,
    - Board Exhibit A: Form 139 L,

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 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. There is sufficient evidence to establish Petitioner's case. This conclusion was arrived at because:
- a. The photographs and testimony submitted by the Petitioner indicate that the property suffers from deferred maintenance.
  - b. After considering the Petitioner's evidence and testimony, the Respondent agreed that a change in condition to Fair would be warranted.
  - c. The subject home is in fair condition and has an actual age of 71 years, which would have a depreciation of 65 percent. This change results in a new assessed value for the dwelling of \$66,300. Both the Petitioner and the Respondent agreed during the hearing that the resulting new total assessed value of \$79,100 would be acceptable. *Elliott testimony; Kubicko testimony.*

### **Conclusion**

16. The Petitioner established her claim regarding the condition of the home. The Respondent agreed that the condition should be fair. The Board finds the condition rating should be changed from average to fair.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to a new total assessed value of \$79,100.

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.**