

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-5-00547  
**Petitioners:** Wendell James & Carmella Helton  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001013904510011  
**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 February 24, 2004, in Lake County, Indiana. The Department of Local Government Finance (the DLGF) determined that the Petitioners' property tax assessment for the subject property was \$137,500 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 16, 2004.
3. The Board issued a notice of hearing to the parties dated July 28, 2004.
4. Special Master Kathy J. Clark held the hearing on September 14, 2004, in Crown Point.

### Facts

5. The subject property is located at 3240 W. 40<sup>th</sup> Avenue, Gary, in Calumet Township.
6. The subject property is a two family one story frame duplex that sits on a lot measuring 100 feet by 298 feet.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of subject property as determined by the DLGF:  
Land \$18,100      Improvements \$119,400      Total \$137,500.
9. Assessed Value requested by Petitioners:  
Land \$15,000      Improvements \$75,000      Total \$90,000.

10. The following persons were sworn as witnesses at the hearing:  
For Petitioners — Carmella Helton, Owner,  
Jen Pfeiffer, Daughter of Carmella Helton,  
For Respondent — Sharon S. Elliott, Staff Appraiser, Cole-Layer-Trumble.

### **Issues**

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
- a) The subject property could not be sold for the assessed value. *Helton testimony.*
  - b) An assessed value of \$90,000 would more closely represent market value and is supported by an appraisal prepared by Preferred R. E. Appraisals, Inc. on February 24, 1997, with a final value conclusion of \$88,000. The appraisal further indicated the property was in a market experiencing an increase in the median value of properties on that date. *Petitioner's Exhibits 1, 2.*
12. Summary of Respondent's contentions in support of the assessment:
- a) An error on the subject property record card occurred as a result of the Petitioners' informal hearing. The computer system did not correctly calculate the values of both duplex units (\$55,100 per unit) in the final total value of the improvements. The correct assessment value of the improvements should be \$110,200, not the \$119,400. This correction would result in a new assessed total value of \$128,300. *Respondent Exhibit 8; Elliott testimony.*
  - b) The software system used to perform a comparable sales analysis cannot use a property with two pages of information. Because of this, the Respondent compared the subject land and the value of only one living unit to sales of ranch style dwellings within the subject's neighborhood. The comparison established that the subject property's assessment is within an acceptable market range of value. *Respondent Exhibits 4, 5, 6, 7; Elliott testimony.*

### **Record**

13. The official record for this matter is made up of the following:
- a) The Petition and all subsequent submissions by either party.
  - b) The tape recording of the hearing labeled BTR 439.
  - c) Exhibits:
    - Petitioners Exhibit 1: Form 139L.
    - Petitioners Exhibit 2: Appraisal performed by Preferred R. E. Appraisals Inc., dated February 24, 1997, with a final determination of value of \$88,000.

Respondent Exhibit 1: Form 139L.  
Respondent Exhibit 2: Subject property record card.  
Respondent Exhibit 3: Photograph of the subject property.  
Respondent Exhibit 4: Comparable sales analysis #1.  
Respondent Exhibit 5: Comparable sales analysis #2.  
Respondent Exhibit 6: Property record cards and photographs for comparable analysis #1.  
Respondent Exhibit 7: Property record cards and photographs for comparable analysis #2.  
Respondent Exhibit 8: Revised property record card of the subject property with correct improvement value identified.  
Board Exhibit A: Form 139L.  
Board Exhibit B: Notice of Hearing.  
Board Exhibit C: Sign-in Sheet.

d) These Findings and Conclusions.

### Analysis

14. The most applicable law is:

- 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.
- d) Indiana’s assessment regulations provide that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. *Long v. Wayne Township Assessor*, Cause No. 49T10-0404-TA-20, slip op. at 8 (Ind. Tax Ct. January 28, 2005). Consequently, a party relying on an appraisal to establish the market value-in-use of a property must provide some explanation as to how the appraised value demonstrates or is relevant to the property’s value as of January 1, 1999. *Id.*

15. The Petitioners did not provide sufficient evidence to establish a prima facie case. This conclusion was arrived at because:
- a) The Petitioners presented an appraisal that concluded the total value of the property as of February 24, 1997, was \$88,000. The appraisal further indicated the property was in a market experiencing an increase in the median value of properties on that date. The appraisal valued the subject property as of a date almost two years prior to the relevant date of January 1, 1999. The Petitioners did not present any market evidence to demonstrate how the appraisal related to the subject property's value on January 1, 1999. Therefore, this appraisal lacks any probative value and it provides no support for Petitioners' claim. *Id.* at 8-9.
  - b) Based on the foregoing, the Petitioners have failed to establish a prima facie case of error in the assessment of the subject property.
  - c) Where the Petitioner has not supported the claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1222 (Ind. Tax Ct. 2003). The Respondent, however, identified and admitted a computer error in the current assessment. Correcting this error results in a new value for the improvements of \$110,200, rather than the current assessment of the improvements of \$119,400. This correction results in a new total assessed value of \$128,300.

### **Conclusion**

16. The Petitioners did not provide sufficient evidence to establish a prima facie case. Nevertheless, the value of the improvements should be reduced to \$110,200 to correct a computer error that Respondent admitted had been made.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the total assessment should be changed to \$128,300.

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.**