

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-016-02-1-4-00121  
**Petitioner:** William A. Watts  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 006-27-18-0141-0005  
**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 Petitioner filed the Form 139L petition on April 27, 2004.
2. The Board issued a notice of hearing to the parties dated March 3, 2005.
3. Special Master Dalene McMillen held a hearing on April 5, 2005, at 1:45 p.m. in Crown Point, Indiana.

### Facts

4. The subject property is located at 2711 West 37<sup>th</sup> Avenue, Hobart. The location is in Hobart Township.
5. The subject property is a four-bay, self-serve carwash.
6. The Special Master did not conduct an on-site visit of the property.
7. The assessed value of the subject property as determined by the DLGF:  
Land: \$62,500      Improvements: \$11,800      Total: \$74,300.
8. The assessed value of the subject property As requested by the Petitioner:  
Land: \$13,100      Improvements: \$11,800      Total: \$24,900.
9. Persons sworn in as witnesses at the hearing:  
William A. Watts, Owner  
Steve McKinney, Assessor/Auditor, DLGF

## Issue

10. Summary of Petitioner's contentions in support of an alleged error in the assessment:
  - a. The Petitioner contends the assessed value is overstated in comparison with properties located in the subject area. The Petitioner requested the subject property be assessed at \$13,100 for the land and \$11,800 for the improvements for an overall assessed value of \$24,900. *Watts testimony.*
  - b. The Petitioner presented information concerning two (2) properties that Petitioner contends are comparable to the subject property. These comparable properties adjoin the subject property and are owned by the Petitioner. They are the same size and they are zoned the same. The two (2) comparables have been assessed using a residential land base rate and the subject property has been assessed using a commercial land base rate. *Petitioner Exhibits 2, 3, & 4; Watts testimony.*
  
11. Summary of Respondent's contentions in support of assessment:
  - a. The Respondent testified the subject property is correctly assessed with land at \$62,500 and improvements at \$11,800 for an overall assessed value of \$74,300. *Respondent Exhibit 2; McKinney testimony.*
  - b. The Respondent testified that the subject property is classified as commercial land, whereas the Petitioner's comparable properties are classified as residential land. *McKinney testimony.*

## 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. 1437,
  - c. Exhibits:
    - Petitioner Exhibit 1 - Plat map of the subject area,
    - Petitioner Exhibit 2 - A copy of William Watts 2002 property record card for parcel #006-27-18-0141-0003 (comparable),
    - Petitioner Exhibit 3 - A copy of William Watts 2002 property record card for parcel #006-27-18-0141-0005 (subject),
    - Petitioner Exhibit 4 - A copy of William Watts 2002 property record card for parcel #006-27-18-0141-0004 (comparable),
    - Respondent Exhibit 1 - Form 139L petition,
    - Respondent Exhibit 2 - Subject property record card,
    - Respondent Exhibit 3 - Two exterior photographs of the subject property,
    - Respondent Exhibit 4 - Incremental / Decremental Land Pricing in Lake County Indiana for the subject property,
    - Board Exhibit A - Form 139L petition,
    - Board Exhibit B - Notice of Hearing on Petition,
    - Board Exhibit C - Hearing sign-in sheet,
  - d. These Findings and Conclusions.

## Analysis

13. The most applicable governing cases are:
  - a. A Petitioner seeking review of a determination of 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 Insurance Company 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 Petitioner did not provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
  - a. The Petitioner submitted DLGF property record cards listing the assessed values of two (2) properties claimed to be comparable to the subject property. *Petitioner Exhibit 2 & 4; Watts testimony*. The two comparable properties are assessed using a residential land base rate, whereas the subject has been assessed using a commercial land base rate, but the Petitioner contends the land should be assessed the same using the residential land classification. *Watts testimony*.
  - b. The Petitioner essentially contends that the DLGF necessarily erred when it classified and assessed the subject land as commercial. However, the Petitioner’s position is at odds with the intent of the relevant administrative rules, which provide that “[I]t should be stressed that the pricing method for valuing the neighborhood is less important than arriving at the correct value of the land as of the valuation date.” REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, ch. 2 at 16. (incorporated by reference at 50 IAC 2.3-1-2). The correct value of property is its “true tax value,” which is defined as “the market value-in-use of property for its current use, as reflected by the utility received by the owner or a similar user of the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2).
  - c. The Petitioner did not present any probative evidence to demonstrate that the assessment of the subject property exceeds its market value-in-use. Even if the Petitioner had established an error in assessment, he did not present any evidence to support his requested valuation of \$13,100. A mere assertion of a property’s value is insufficient to establish a prima facie case. *See Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113 (Ind. Tax 1998)(Mere allegations, unsupported by factual evidence, will not be considered sufficient to establish an alleged error).
  - d. 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 Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

### Conclusion

15. The Petitioner failed to make a prima facie case regarding the valuation of the subject property. 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 assessment should not 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>.**