

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-032-02-1-4-00543  
**Petitioner:** William Yothment  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 009201301870005  
**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 in Lake County, Indiana. The Department of Local Government Finance (the "DLGF") determined the Petitioner's property tax assessment for the subject property and notified the Petitioner on March 26, 2004.
2. The Petitioner filed the Form 139L on April 20, 2004.
3. The Board issued the notice of hearing to the parties dated March 3, 2005.
4. Special Master Kay Schwade held the hearing in Crown Point on April 5, 2005.

### Facts

5. The subject property is located at 7519 Cline Avenue, Schererville, Indiana.
6. The subject property is a commercial lot measuring 20 feet by 213 feet.
7. The Special Master did not conduct an on-site visit of the property.
8. The assessed value of subject property as determined by the DLGF:  
Land \$60,900                      Improvements \$800                      Total \$61,700.
9. The assessed value requested by Petitioner:  
Land \$19,300                      Improvements \$800                      Total \$20,100.

10. Persons present and sworn in at hearing:  
For Petitioner – William Yothment, property owner,  
Hank Adams, township assessor,  
For Respondent – Lori Harmon, DLGF.

### **Issue**

10. Summary of Petitioner’s contentions in support of an alleged error in the assessment:
- a) The value of the subject property should be based on a square foot rate of \$7.55 rather than a square foot rate of \$23.76. *Yothment testimony*. The land value for the subject property should be calculated using a square foot rate of \$7.55 with a negative 40% influence factor, like the adjacent property, resulting in a land value of \$19,300. *Adams testimony; Petitioner Exhibit 3, 4.*
  - b) The subject property, while a separate parcel by legal description, is used as parking for the business conducted on the adjacent parcel and is the site for a portion of the building in which business is conducted. *Yothment testimony; Adams testimony*. Both parcels are owned by the Petitioner and used in the operation of the Petitioner’s commercial business. *Yothment testimony; Adams testimony, Petitioner Exhibit 6.*
  - c) The subject property must be viewed independently because it is a single, legal piece of property. *Adams testimony*. The subject property cannot be used for anything other than its current use because the size prohibits any future development. *Yothment testimony.*
11. Summary of Respondent’s contentions in support of the assessment:
- a) Land value is established based on a standard sized lot and standard square foot rate for a neighborhood. *Harmon testimony*. In the subject neighborhood, the standard lot is 1 acre and the standard square foot rate is \$4.25. *Harmon testimony; Respondent Exhibit 4.*
  - b) The square foot rate is adjusted downward for lots larger than the standard size and upward for lots smaller than the standard size. *Harmon testimony*. Lots smaller than the standard size receive a greater square foot value. *Harmon testimony.*
  - c) The subject property is a parking area for the adjacent property. *Harmon testimony*. If the subject parcel and the adjacent parcel were combined into a single parcel, the land value would be \$137,700, or \$6.46 a square foot. *Harmon testimony; Respondent Exhibit 4.*
  - d) The negative 40% influence factor applied to the land value is to adjust the value of the subject property downward to reflect, when added to the land value of the adjacent property, a total land value for both parcels of \$137,700. *Harmon testimony; Respondent 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 County 1433,
  - c) Exhibits:
    - Petitioner Exhibit 1 – A copy of the Form 11, Notice of Assessment,
    - Petitioner Exhibit 2 – Copies of the Notices of Final Assessment for the subject property and the property located at 7515 Cline Avenue,
    - Petitioner Exhibit 3 – A property record card for the property located at 7515 Cline Avenue,
    - Petitioner Exhibit 4 – The subject property record card showing the proposed land value calculation using a square foot rate,
    - Petitioner Exhibit 5 – A property record card for the subject property showing a proposed land value calculation using an acreage base rate of \$300 per acre,
    - Petitioner Exhibit 6 – A survey plat of the subject property,
    - Respondent Exhibit 1 – The Form 139L,
    - Respondent Exhibit 2 – The subject property record card
    - Respondent Exhibit 3 – The property record card for an adjacent property,
    - Respondent Exhibit 4 – A copy of a multi-parcel worksheet,
    - Board Exhibit A – The Form 139L,
    - Board Exhibit B – The Notice of Hearing,
    - Board Exhibit C – The Sign in Sheet,
  - d) These Findings and Conclusions.

## Analysis

13. The most applicable laws 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 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 Petitioner provided sufficient evidence to support the Petitioner's contentions. This conclusion was arrived at because:
- a) The evidence presented by the Petitioner shows that the land value for the subject property is established using a square foot rate of \$23.76 while the adjacent property land value is established using a square foot rate of \$7.55. *Yothment testimony; Adams testimony; Petitioner Exhibit 3, 4*. The evidence also shows that, because the subject property is the parking area for the Petitioner's business, the subject property is used for the same purpose as the adjacent property, which is the location of the Petitioner's commercial operation. *Yothment testimony; Harmon testimony*.
- b) The Petitioner has presented evidence establishing a similarity between the subject property and the adjacent property. The Petitioner has also established that 2 similar properties are valued at different rates. The Petitioner has presented sufficient evidence to establish a prima facie case. The burden now shifts to the Respondent to present evidence to rebut the Petitioner's evidence. *American United*, 803 N.E.2d 276; *Meridian Towers*, 805 N.E.2d at 479.
- c) The Respondent failed to present any evidence rebutting the Petitioner's evidence showing that comparable property is valued at a lower per square rate than the subject property. The Respondent simply presented a calculation for a multi-parcel adjustment and claimed that, when this adjustment is applied, the result correctly reflects the subject property's portion of what the assessment would be for both the subject property and the adjacent property if they were a single parcel. *Harmon testimony; Respondent Exhibit 4*. This evidence fails to rebut the fact that the subject property is valued at a higher per square foot rate than the comparable, adjacent property. This evidence merely shows what the assessing officials believe would be the total value of both properties if combined and what the assessing officials believe the subject property's portion would be. In fact, what this evidence shows is that the indicated per square foot rate for the subject property, as well as the adjacent property, is \$6.46 a square foot and that the subject property, as well as the adjacent parcel, should be valued at \$6.46 a square foot rather than the \$7.55 a square foot sought by the Petitioner. *Respondent Exhibit 4*.

### **Conclusion**

15. The Petitioner provided sufficient evidence to make a prima facie case. The Respondent failed to rebut the Petitioner's prima facie case. The Board finds in favor of the Petitioner.

### Final Determination

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