

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-00004  
**Petitioners:** William J. & Jeanne M. Emerson, Sr.  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 007-26-35-0005-0016  
**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 January 22, 2004, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$106,200 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 14, 2004.
3. The Board issued a notice of hearing to the parties dated May 28, 2004.
4. A hearing was held on July 8, 2004, in Crown Point, Indiana before Special Master Kathy J. Clark.

### Facts

5. The subject property is located at 6643 Jackson Avenue, Hammond, Indiana.
6. The subject property is a two story, two-bedroom, single-family residence.
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: \$17,600      Improvements: \$88,600.
9. Assessed Value requested by Petitioners:  
Land: \$11,600      Improvements: \$83,600.

10. The following persons were present and sworn in at the hearing:  
For Petitioners: William J. Emerson, Sr., Owner  
For Respondent: Sharon Elliott, Staff Appraiser, Cole-Layer-Trumble

### **Issues**

11. Summary of Petitioners' contentions in support of alleged error in assessment:
- a) The Petitioners testified that they purchased the property in December of 1993 for \$80,000, and contended that it could not have appreciated in value \$26,200 since that time.
  - b) Petitioners contended that there are similar homes within their neighborhood that are assessed at a much lower value. The Petitioners presented sales advertisements in support of this position. (Emerson testimony; Petitioners' Exhibit 4.)
12. Summary of Respondent's contentions in support of assessment:
- a) Petitioners' comparables are of only advertised listings of properties for sale, not verifiable sales.
  - b) Respondent contended that comparable sales support the subject's assessed value. (Elliott testimony; Respondent's Exhibits 4-8.)

### **Record**

13. The official record for this matter is made up of the following:
- a) The Petition and all subsequent pre-hearing submissions by either party.
  - b) The tape recording of the hearing labeled BTR #212.
  - c) Exhibits:
    - Petitioners' Exhibit 1: Form 139L Petition.
    - Petitioners' Exhibit 2: Summary of Petitioners' arguments.
    - Petitioners' Exhibit 3: Outline explaining relevance of evidence.
    - Petitioners' Exhibit 4: Truth-In-Lending Disclosure Statement and Property Record Card of Subject; advertised listings of similar homes.
  
    - Respondent's Exhibit 1: 139L Petition.
    - Respondent's Exhibit 2: Subject Property Record Card.
    - Respondent's Exhibit 3: Photograph of subject.
    - Respondent's Exhibit 4: Comparable Sales Sheet.
    - Respondent's Exhibit 5: Comparable Property Record Card.
    - Respondent's Exhibit 6: Comparable photograph.
    - Respondent's Exhibit 7: Comparable Property Record Card.
    - Respondent's Exhibit 8: Comparable photograph.
  - d) These Findings and Conclusions.

## **Analysis**

14. 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).
15. 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”).
16. 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.
17. The Petitioners did not provide sufficient evidence to support the Petitioners’ contentions. This conclusion was arrived at because:
  - a) Petitioners established that they purchased the home for \$80,000 on or about November 16, 1993. (Emerson testimony; Petitioners’ Exhibits 1 and 4.) There is no evidence, however, establishing any particular relationship or market trend between that value and the market value of the property as of January 1, 1999. Without such information, it is impossible to draw any reasonable conclusion about what the market value of the home might have been approximately five years after Petitioners bought it. This evidence does not constitute a prima facie case.
  - b) Petitioners did not provide property record cards or detailed descriptions of the properties they submitted as comparable. For example, no information was provided concerning the neighborhoods, lot sizes, square footage, grade, or amenities of the properties Plaintiffs offered as comparables. Conclusory statements concerning the comparability of properties do not constitute probative evidence. *Blackbird Farms Apts. v. Dep’t of Local Gov’t Fin.*, 765 N.E.2d 711 (Ind. Tax Ct. 2002). Lacking substantial probative evidence, it is impossible to draw any reasonable conclusion about what the market value of the home might have been based on comparable sales. This evidence does not constitute a prima facie case.

## **Conclusion**

18. The Petitioners failed to make a prima facie case. Therefore, it is not necessary for the Board to address the evidence or argument Respondent offered in favor of the assessment.
19. The Board finds in favor of Respondent and sustains the total assessed value of \$106,200.

### **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:

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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.**