

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-5-00471  
**Petitioners:** Willie & Luchie Wright  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001-15-26-0152-0040  
**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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held on February 10, 2004, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$165,800 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 July 28, 2004.
4. A hearing was held on September 14, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is located at: 126 N. Cline Avenue, Griffith, Calumet Township.
6. The subject property includes two lots (39 and 40) with one half of a duplex home.
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 \$16,800 Improvements \$149,000 Total \$165,800
9. Assessed Value requested by Petitioners:  
Land \$8,400 Improvements \$75,000 Total \$83,400

10. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing, in addition to two observers from the public.
11. Persons sworn in at hearing:  

For Petitioners: Luchie Wright, Owner and Cecilia Maranon, Original Owner  
For Respondent: David Depp, Representing the DLGF

### **Issues**

12. Summary of Petitioners' contentions in support of an alleged error in the assessment:
  - a. The Petitioners live in one-half of a duplex. The duplex sits on four separate lots – lots 37-40 of Ridgwood Addition in Griffith, Indiana. Petitioner Luchie Wright's parents, Felix and Cecilia Maranon, bought the duplex and all four lots in 2000 for \$228,000.<sup>1</sup> *Wright testimony; Maranon testimony*. The Petitioners then purchased the subject property - lots 39 and 40 and one-half of the duplex - from the Maranons on October 16, 2002, for \$138,000. *Wright testimony; Petitioner Exhibit 2*.
  - b. The Petitioners believe that they have been assessed for Lots 38 and 39, containing the entire duplex, and that the Maranons were assessed only for Lots 37 & 40, which the Petitioners characterized as comprising the "backyard" of the duplex. *Wright testimony*.
13. Summary of Respondent's contentions in support of the assessment:
  - a. When the County separated the parcels, the split was incorrect. *Depp testimony*. The Respondent correctly assessed the Petitioners for one-half of the duplex and for Lots 39 and 40. *Depp testimony*. Unfortunately, the County's records did not reflect any structure on the Maranons' lots, and they were assessed only as vacant land. *Id*.
  - b. While trying to straighten-out the problem, the Respondents made some adjustments to the quality grade and measurements of the Petitioners' one-half of the duplex and recommend that the total assessment for the subject property be reduced to \$161,900.
  - b. The Petitioners' purchase of the property from Luchie Wright's parents was not an arm's length transaction. *Depp testimony; Petitioner Exhibit 2*.

### **Record**

14. The official record for this matter is made up of the following:
  - a. The Petition.

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<sup>1</sup> Cecilia Maranon testified that the Maranons bought the property for \$218,000 or \$220,000. *Maranon testimony*. Petitioner Exhibit 6, however, indicates that the Maranons bought the property for \$228,000

- b. The tape recording of the hearing labeled Lake Co. #432.
- c. Exhibits:

- Petitioner Exhibit 1: Plat of Survey
- Petitioner Exhibit 1: Closing Statement
- Petitioner Exhibit 2: Party Wall Agreement
- Petitioner Exhibit 4: Warranty Deed
- Petitioner Exhibit 5: Property record card
- Petitioner Exhibit 6: Closing statement from May 2000<sup>2</sup>

- Board Exhibit A: Form 139 L
- Board Exhibit B: Notice of Hearing
- Board Exhibit C: Sign in Sheet

- d. These Findings and Conclusions.

### Analysis

- 15. The most applicable 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").

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.

- 16. The Petitioners provided sufficient evidence to support a reduction in assessment. This conclusion was arrived at because:
  - a. The Petitioners contend that they have been assessed for the entire duplex rather than for the one-half of that structure that they own. *Wright testimony*.

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<sup>2</sup> This was additional information requested by the Special Master. The Respondent did not object to the request.

- b. The Petitioners' own evidence, however, refutes that claim. The Petitioners submitted a plat of survey for the four lots and the duplex. *Petitioner Exhibit 1*. That plat of survey includes dimensions for the duplex. *Id.* The dimensions for one-half of the duplex on the plat of survey generally match those listed on the property record card for the subject property. *Id.*; *Petitioner Exhibit 5*.
- c. The Petitioners, however, also contend that the assessment exceeds the \$138,000 for which they purchased the subject property in 2002. Moreover, the Petitioners point to the fact that the Maranons purchased the entire duplex and all four lots for \$228,000 in 2000. Consequently, reason the Petitioners, their one-half of the property should be valued at \$114,000.
- d. The purchase price of a subject property is generally the best evidence of that property's market value. That general rule is subject to the caveat that, for purposes of the 2002 general reassessment, a property's assessment must reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.3-1-2). Here, the Petitioners submitted evidence concerning two sales involving the subject property. The first of those sales – the Maranons' purchase of the entire property - occurred reasonably close in time to the relevant valuation date of January 1, 1999. The second sale – Petitioners' purchase of one-half of the duplex property - demonstrates that the property appreciated in value over time. Consequently, the Petitioners established a prima facie case that the market value-in-use of the subject property as of January 1, 1999, did not exceed \$114,000 (one-half of the 2000 sale price).
- e. The burden therefore shifted to the Respondent to rebut or impeach the Petitioners' evidence concerning the sale price of the property from 2000. *See Meridian Towers*, 805 N.E.2d at 479. The Respondent's representative, David Depp, attempted to rebut the Petitioners' evidence in essentially two ways: (1) Depp contended that the Petitioners' 2002 purchase of the subject property from Luchie Wright's parents was not an arms length transaction; and (2) Depp asserted that the Respondent's calculations, including unspecified changes to measurements and an undisclosed change in quality grade, were correct.
- f. With regard to the former, attacking the probative value of the 2002 sale of the subject property as not being an arms length transaction does little to impeach the Petitioners' evidence regarding the amount for which Luchie Wright's parents bought the entire property in 2000. With regard to the latter, Depp provided no evidence to support his assertion that his calculations were correct, or why such calculations under the mass appraisal approach represented by the Real Property Assessment Guidelines for 2002 – Version A, would provide a better indication of market value than the actual sale of the property in question.
- e. Based on the foregoing, the preponderance of the evidences supports finding the current assessment is incorrect, and that it should be changed to reflect a total value of \$114,000.

## Conclusion

17. The Petitioners made a prima facie case for a reduction in value. The Respondent did not rebut the case with substantial evidence. The Board finds in favor of the Petitioners.

## 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 \$114,000.

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.** 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>.