

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-00043  
**Petitioners:** William John & Sandra Lynn Jacobs  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 007162704280002  
**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 December 11, 2003. The Department of Local Government Finance (the "DLGF") determined that the Petitioners' property tax assessment for the subject property was \$182,800 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 8, 2004.
3. The Board issued a notice of hearing to the parties dated June 29, 2004.
4. A hearing was held on September 8, 2004, in Crown Point, Indiana before Special Master Kathy J. Clark.

### Facts

5. The subject property is located at 2938 43<sup>rd</sup> Street, Highland, in North Township.
6. The subject property is a tri-level single-family dwelling located on a 65' x 150' lot.
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: \$27,800 Improvements: \$155,000 Total: \$182,800.
9. Assessed Value requested by Petitioners:  
Land: \$27,800 Improvements: \$92,200 Total: \$120,000.

10. The following persons were present and sworn in at the hearing:

For Petitioners: William Jacobs, 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 square footage shown on the 2003 property record card is incorrect. The square footage shown on the Form 11 is correct and agrees with the actual size shown on the survey. *Jacobs testimony; Petitioner Exhibits 1A, 1C, 1D.*
- b. He purchased the property in 1987 for \$69,000. In 2000, he applied for a home equity loan; the appraisal form shows the value at \$120,000. *Jacobs testimony; Petitioner Exhibits 2A, 2B.*
- c. His evidence shows that his property is over-assessed by 29.38% when compared to other tri-levels in Highland that are the same size and in the same area. *Jacobs testimony; Petitioner Exhibits 3, 4.*
- d. He did not have access to sales so he compared assessments rather than sales prices. *Jacobs testimony.*

12. Summary of Respondent's contentions in support of the assessment:

- a. A review of the dimensions and the photograph of the subject show that the measurements on the 2002 property record card are correct. *Elliott testimony; Respondent Exhibit 2.*
- b. The comparable sales analysis places the subject property within acceptable market value range as compared to other tri-level residential sales within the subject's neighborhood. *Elliott testimony; Respondent Exhibit 4.*
- c. The neighborhood factor for the comparables that the Petitioners used may not be the same as the subject. That factor and the difference in depreciation between the newer subject and the slightly older comparables would cause the subject to have a higher assessed value. *Elliott testimony.*

### **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 Lake Co. Tape #186.

c. Exhibits:

Petitioner Exhibit 1: Dwelling size determinations.

Petitioner Exhibit 2: Past appraisals.

Petitioner Exhibit 3: Dwelling size and assessment comparisons.

Petitioner Exhibit 4: Photograph of 2938 43<sup>rd</sup> Street.

Respondent Exhibit 1: Form 139L.

Respondent Exhibit 2: Subject property record card.

Respondent Exhibit 3: Photograph of subject property.

Respondent Exhibit 4: Comparable sales analysis, record cards and photographs of comparables.

Respondent Exhibit 5: Photographs and record cards of comparables submitted by Petitioners at the informal hearing.

d. These Findings and Conclusions.

### Analysis

14. 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.

### Dwelling Measurements

15. The Petitioners did not provide sufficient evidence to establish a prima facie case. This conclusion was arrived at because:

- a. The Petitioner submitted a 1986 survey of the subject property showing the proposed dimensions of a tri-level dwelling. *Petitioner Exhibit 1A*. This survey was conducted prior to actual construction of the subject property. The date of the survey was

- December 2, 1986. According to both property record cards submitted by the Petitioners, the subject property was built in 1987. *Petitioner Exhibit 1B, 1C.*
- b. The survey states the proposed property is a tri-level home. *Petitioner Exhibit 1A.* The 2001 property record card indicates the property is a tri-level but then assesses the property with one floor and a basement. *Petitioner Exhibit 1B.*
  - c. The property record card (*Petitioner Exhibit 1C*) presented by the Petitioners values the property as a tri-level, with two separate sections of base area assessed. Neither of the two areas assessed is classified as a basement.
  - d. The photographs of the subject property are consistent with the sketch included on the property record card and with the description of the building sections as assessed on said card. *Petitioner Exhibit 4, Respondent Exhibits 2, 3.*
  - e. The Petitioners did not provide sufficient evidence indicating an error in the measurements. The survey was done prior to construction and plans may have changed. The 2001 property record card submitted could have been in error.<sup>1</sup> The Petitioners did not establish a prima facie case. There is no change in the dwelling measurements.

#### Value

16. 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 prepared on July 7, 1987, by Mr. Thomas W. DeRolf for American S&L Associates to show the difference between the purchase price and the current assessed value. The appraisal, however, cannot be considered probative evidence because it was over eleven (11) years before the January 1, 1999 valuation date used in determining the assessment. *Petitioner Exhibit 2A.* For an appraisal to be considered probative evidence, the Petitioners must tie the value to the January 1, 1999, valuation date. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466 (Ind. Tax Ct. 2005) (stating that an appraisal four years after the valuation date has no probative value without supporting evidence adjusting for the gap in time).
  - b. The Petitioners applied for a home equity loan in 2000 and submitted a bank appraisal form as an estimate of value. *Petitioner Exhibit 2B.* A certified real estate appraiser did not sign this appraisal. Without knowing the qualifications of the person doing the appraisal, the value conclusion arrived at cannot be considered reliable. Furthermore, this appraisal does not state how the appraiser arrived at the value. This “appraisal” is considered conclusory and has no probative value. *See Inland Steel Co.*

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<sup>1</sup> In fact, the 2001 property record card does not assess the property for having a crawl space. The 2002 property record card does assess the property for a crawl space. The property appraisal of the property (*Petitioner Exhibit 2A*) indicates the property does have a crawl space.

- v. State Bd. of Tax Comm'rs*, 739 N.E.2d 201, 220 (Ind. Tax Ct. 2000) (stating that a certified appraisers testimony, without explanation, is conclusory).
- c. Finally, the Petitioners present comparison sheets for 6 other properties. The Petitioners must show how the purported comparables are in fact comparable to the subject property. In order to prove comparability, Petitioners are responsible for explaining to the Board the characteristics of their own property, how those characteristics compare to those of the purportedly comparable properties, and how any differences affected the relevant market value-in-use of the properties. *Long*, 821 N.E.2d at 470.
  - d. The properties submitted by Petitioners, Exhibits 3A through 3Z, do not contain sufficient information to make a comparison to subject. There is minimal information provided. There are no adjustments made to account for any differences. For example, the property identified in Petitioner Exhibits 3A-3D was constructed in 1963. This property has 0.14 acres. The subject property was constructed in 1987 and has 0.224 acres. The Petitioners did not show what affect, if any, these differences have on the market value of the property. Furthermore, there is no comparison of the condition, the number of rooms, amenities, or other features of the subject with any of the properties.
  - e. It is the duty of the Petitioner to explain how these properties are comparable with the subject. *Blackbird Farms Apts., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002). The Petitioners did not provide probative evidence indicating the subject property is comparable to the properties presented by the Petitioners. Therefore, there is no change in the assessment.

## **Conclusions**

### Dwelling Measurements

- 17. The Petitioners failed to establish a prima facie case regarding the dwelling measurements. The Board finds for the Respondent.

### Value

- 18. The Petitioners did not establish a prima facie case regarding the assessed value. The Board finds for 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: \_\_\_\_\_

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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.**