

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-041-02-1-5-00110  
**Petitioner:** William Lloyd Chandler Revocable Trust  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 003-23-09-0098-0020  
**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 in October 2003. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$90,000. The DLGF's Notice of Final Assessment was sent to the Petitioner on March 12, 2004.
2. The Petitioner filed a Form 139L on April 13, 2004.
3. The Board issued a notice of hearing to the parties on August 31, 2004.
4. A hearing was held on October 5, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is a 1½-story frame residence located at 622 East Joliet Street, Crown Point, Center Township, Lake County.
6. The Special Master did not conduct an on-site visit of the property.
7. Assessed Values of the subject property as determined by the DLGF are:  
Land \$24,100 Improvements \$65,900 Total \$90,000
8. Assessed Values requested by the Petitioner per the Form 139L are:  
Land \$13,600 Improvements \$57,000 Total \$70,600

9. The persons indicated on the attached sign-in sheet (Board Exhibit C) were present at the hearing.

10. Persons sworn in at the hearing:

For Petitioner: Judith Chandler, Authorized Representative

For Respondent: David Depp, Cole-Layer-Trumble (CLT), representing the DLGF

### **Issues**

11. Summary of Petitioner's contentions in support of alleged error in assessment:

#### Land

a. The lot size is incorrect. The subject lot is approximately 40 feet by 130 feet. The township assessor came out and corrected the assessment of the lot for the 2003 tax year. *Chandler testimony; Petitioner's Exhibit 8.*

#### Grade

b. The old PRC (1995) shows the dwelling graded as "D-1" in "average" condition, with 60% physical depreciation. The old PRC shows the detached garage graded "E+1" in "fair" condition, with 65% depreciation. The PRC for 2002 shows the dwelling graded as "C-1", in "fair" condition, with 50% depreciation, and the detached garage graded "D" in "fair" condition, with 65% depreciation. *See Chandler testimony; Petitioner Exhibits 5-6.*

c. The Petitioner submitted a highlighted Grade Specification Table showing that the subject structure falls between an "E" and "D" grade. The correct grade should be "D-1", with a condition rating of either "average" or "fair". *Chandler testimony; Petitioner Exhibit 7.*

d. Photographs of the subject dwelling show that the foundation is in need of additional repair although part of it was replaced in 2001. *Chandler testimony; Petitioner Exhibit 17.*

e. The Petitioner submitted information concerning three (3) comparable properties from the same neighborhood as the subject property. Those properties are assessed for less than the subject property. The subject property should be assessed for between \$70,000 and \$75,000 as of 1999. *Chandler testimony; Petitioner Exhibits 9-16.*

- f. The grade of the garage changed from “E+1” in 1995 to “D” in 2002. The garage has no windows, no gutters, used doors, and two (2) types of old wood. *Chandler testimony; Petitioner Exhibit 18.*

12. Summary of Respondent’s contentions in support of assessment:

Land

- a. There was a decrease in the subject property’s assessment as a result of the informal hearing. *Depp testimony.*
- b. The Respondent used the measurements provided by the County. Although the measurements of the subject land and its assessed value were changed for 2003, they should not be changed for 2002. CLT did not have the authority to change the land without any documentation. *Depp testimony.*

Grade

- c. The 2002 Real Property Assessment Manual provides guidelines for assigning quality grades to improvements. Township assessors did not have the experience to assign grades properly, which resulted in inappropriately low grades being assigned in previous assessments. *Depp testimony.*
- d. The grade was low on the subject property for a long time. The present grade of “C-1” is correct. *Depp testimony; Respondent Exhibit 2.*
- e. The subject property is fairly assessed as demonstrated by the sales of three (3) homes of similar age and design and located in the same neighborhood as the subject property. *Depp testimony & Respondent Exhibit 4.*
- f. The garage is not updated and the Respondent has assigned it a low value as a result. The garage value would contribute to the overall value of the property. *Depp testimony.*

**Record**

13. 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. #312.
- c. Exhibits:

Petitioner Exhibit 1: Power of Attorney  
Petitioner Exhibit 2: Notice of Final Assessment

Petitioner Exhibit 3: Form 139L  
Petitioner Exhibit 4: Summary of Arguments  
Petitioner Exhibit 5: Subject's 2002 property record card (PRC)  
Petitioner Exhibit 6: Subject's 1995/96 PRC  
Petitioner Exhibit 7: Grade Specification Table  
Petitioner Exhibit 8: Form 11R/A dated August 12, 2004  
Petitioner Exhibit 9: Comparables Summary  
Petitioner Exhibit 10: Comparables Summary continued  
Petitioner Exhibit 11: Comparable Sales Disclosure  
Petitioner Exhibit 12: Comparable PRC  
Petitioner Exhibit 13: Comparable Sales Disclosure  
Petitioner Exhibit 14: Comparable PRC  
Petitioner Exhibit 15: Comparable Sales Disclosure  
Petitioner Exhibit 16: Comparable PRC  
Petitioner Exhibit 17: Photographs of subject dwelling's foundation  
Petitioner Exhibit 18: Photograph of detached garage  
Petitioner Exhibit 19: Photographs of subject dwelling's foundation

Respondent Exhibit 1: Form 139L  
Respondent Exhibit 2: Subject's PRC  
Respondent Exhibit 3: Photograph of the subject property  
Respondent Exhibit 4: Comparable Summary, PRCs and photographs  
Respondent Exhibit 5: Other Comparable PRCs  
Respondent Exhibit 6: Aerial Map

Board Exhibit A – Form 139L Petition  
Board Exhibit B – Notice of Hearing on Petition  
Board Exhibit C – Sign-in Sheet

d. These Findings and Conclusions.

### **Analysis**

14. The most applicable governing cases and regulations are:
- a. A petitioner seeking review of a determination of the DLGF 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 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 479.

### Land Value

15. The Petitioner provided sufficient evidence to support its contention for a reduction in land value. This conclusion was arrived at because:
  - a. Judith Chandler testified that the dimensions of the subject parcel were incorrect in past assessments. Judith Chandler testified that the assessor performed a “field survey” of the subject lot and determined that its correct measurements were 40’ x 130’ feet. The Petitioner presented a Form 11R/A dated August 12, 2004, reflecting that the assessor had lowered the subject property’s land value from \$24,100 to \$14,100 effective March 1, 2003. *Chandler testimony; Petitioner Exhibit 8*. The Petitioner presented a prima facie case that the land portion of the current assessment is in error.
  - b. The burden therefore shifted to the Respondent to impeach or rebut the Petitioner’s evidence regarding the measurements of the subject land. The Respondent did not dispute Chandler’s testimony. The Respondent’s instead claimed that the subject parcel’s dimensions were provided by the County and should not be changed for the 2002 reassessment. The Respondent’s representative testified that CLT did not have the authority to change the land values without documentation. *Depp testimony*.
  - c. Whether CLT had the authority to change land values during the assessment process is irrelevant to the issue at hand. Where, pursuant to a timely filed petition for review of assessment, a taxpayer demonstrates that the assessment of its land was based upon incorrect measurements, the taxpayer is entitled to have the assessment changed to reflect the correct measurements.
  - d. Based on the foregoing, the preponderance of the evidence demonstrates that the land portion of the current assessment is in error.

### Quality Grade

16. The Petitioner did not provide sufficient evidence to support its contention for a reduction in the grade factor. This conclusion was arrived at because:

### Comparables

- a. The Petitioner presented evidence regarding three (3) purportedly comparable properties from the subject's neighborhood. According to the Petitioner, all three dwellings were of similar size and construction as the subject dwelling, and all three were two-family residences. The grade factors applied to the comparable dwellings were "D+2", "D+1" and "D+2," respectively.
- b. The Petitioner's analysis compares the data on the subject property's 2002 PRC to the data on the 1995 or 2001 PRCs for the purportedly comparable dwellings. Although one might assume, barring any changes to the dwellings, that the base data could be the same for each dwelling for each reassessment, the manner in which that data was reviewed and applied changed between the 1995 and 2002 reassessments. The rules governing the 2002 reassessment reflect a change to a property taxation system based upon market value-in-use. 2002 REAL PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.3-1-2).
- d. Moreover, although the Petitioner asserted that the subject property is of the same general construction as the purportedly comparable properties, the Petitioner did not explain how the properties compare with regard to the elements upon which assignments of grade are made under the Real Property Assessment Guidelines for 2002 – Version A ("Assessment Guidelines"). Consequently, the Petitioner's testimony concerning the similarity of the properties is conclusory.

### Grade Specification Table

- e. The Petitioner also submitted a highlighted Grade Specification Table from the 1995 Real Property Assessment Manual in support of its claims. Again, the assessment year under appeal is 2002. The Grade Specification Table submitted by the Petitioner, was part of the rules and regulations promulgated for the 1995 statewide general reassessment. For the 2002 statewide general reassessment, new rules and regulations were promulgated. These new rules and regulations include a significantly expanded Quality Grade Specification Tables. *SEE REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A*, app. A at 9-14 (incorporated by reference at 50 IAC 2.3-1-2).
- f. Assuming, *arguendo*, that the use of the Grade Specification Table for 1995 were an acceptable method through which to contest the assignment of a quality grade in the 2002 general reassessment, the Petitioner still failed to demonstrate an error in the grade assigned to the subject structures. The Petitioner simply highlighted three (3) items from the "C" grade column, eleven (11) from the "D" grade column and eleven (11) from the "E" grade column. The Petitioner then determined that a grade of "D-1" was appropriate.

- g. The Petitioner’s methodology suffers from two major flaws. First, the Petitioner did little more than highlight descriptions of various features listed in the tables. While some of the descriptions are fairly straightforward factual matters, such as whether a roof is gabled or hipped, many others are stated in conclusory fashion, such as whether outlets are “scarce” or “adequate.” The latter require some underlying factual development before the Board may conclude that the features of the subject dwelling match the description set forth in the table. Second, many of the features highlighted by the Petitioner under the “D” grade or “E” grade may be found under higher grade categories as well.
- h. Based on the foregoing, the Petitioner failed to establish a prima facie case of error in the quality grades assigned to the subject dwelling and detached garage.

**Conclusions**

Land

- 17. The Petitioner made a prima facie case. The Board finds in favor of the Petitioner.

Grade

- 18. The Petitioner failed to make a prima facie case. 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 the following:

- a. That the land assessment, as of the March 1, 2002, assessment date, be changed to reflect dimensions of 40’ x 130’ for the subject parcel and that the assessed value be changed accordingly; and,
- b. That no change be made to the quality grades assigned to the subject dwelling and detached garage.

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>.