

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-041-02-1-5-00111  
**Petitioner:** William Lloyd Chandler Revocable Trust  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 003-03-07-0213-0033  
**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 \$72,200. 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 14, 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 single-family residence located at 312 Maple 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: \$19,400    Improvements: \$52,800    Total: \$72,200  
  
Assessed Values requested by the Petitioner per the Form 139L are:  
Land: \$19,400    Improvements: No value shown    Total: No value shown
8. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing:

9. Persons sworn in at hearing:

For Petitioner: Judith Chandler, Property Owner

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

**Issues**

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

- a. The Petitioner bought the subject property on July 10, 2003. The property "sold through a bank;" however, there were multiple bidders and the sale price was a reflection of the property's market value. The sale price was above "the appraisal price." The Petitioner submitted a settlement statement reflecting a contract price of \$72,501. The sale price needs to be trended back to the January 1, 1999, valuation date. *Chandler testimony; Petitioner Exhibit 4.*
- b. Although the previous owner installed new windows, a new roof and a new furnace, the subject dwelling is in a state of general disrepair. The floors are cracked, the walls are fiberboard, the porcelain is gone, and cabinet drawers are falling off. *Chandler testimony; Petitioner Exhibits 5-6.* The facing is coming off of the exterior of the house and the concrete stoops are deteriorating. *Id.*

11. Summary of Respondent's contentions in support of a reduction in assessment:

- a. The Respondent agreed that the July 10, 2003, purchase price should be trended back to the January 1, 1999, for a fair assessment.

**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 Co. #312.
- c. Exhibits:

Petitioner Exhibit 1: Notice of Final Assessment  
Petitioner Exhibit 2: Form 139L  
Petitioner Exhibit 3: Summary of Arguments  
Petitioner Exhibit 4: Subject's Settlement Statement  
Petitioner Exhibit 5: List of Neglected Items  
Petitioner Exhibit 6: Subject Photographs

Respondent Exhibit 1: Form 139L  
Respondent Exhibit 2: Subject Property Record Card (PRC)  
Respondent Exhibit 3: Photograph of the subject property  
Respondent Exhibit 4: Comparable Summary, PRCs and photographs

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**

13. 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 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 did not provide sufficient evidence to support its contentions. This conclusion was arrived at because:

### **Sale of the Subject Property**

- a. The Petitioner submitted into evidence a Settlement Statement dated July 10, 2003. The settlement statement reflects a contract sale price of \$72,501, although the Settlement Statement also references an additional amount of \$6,743.62 as being due to the seller. The Petitioner did not explain what that additional amount represents, nor did the Petitioner submit the portion of the Settlement Statement containing that particular line item (line 1400). The Petitioner testified that the sale price would need to be trended back to the January 1, 1999, valuation date. *Chandler testimony; Petitioner Exhibit 4.*

- b. The Respondent agreed that, if trended to January 1, 1999, the sale price would represent a fair assessment. *Depp testimony; Petitioner Exhibit 4.*
- c. Although the parties agreed that the sales price from 2003 needs to be trended back to January 1, 1999, neither party submitted any evidence regarding what the time-adjusted value of the subject property should be. The July 10, 2003, sale price actually exceeds the current assessment. It was the Petitioner's burden to establish both that the current assessment is incorrect and what the correct assessment would be. *See Meridian 805 N.E.2d at 478.* Absent evidence from which to adjust the 2003 sale price to a value as of January 1, 1999, the Petitioner failed to present a prima facie case.

#### Condition Rating

- d. The Petitioner submitted into evidence three (3) exterior photographs showing facing falling off of the exterior of the subject dwelling and deterioration of concrete stoops attached to the subject dwelling. *Petitioner Exhibit 6.* The Petitioner also submitted a handwritten list of "neglected items" from the interior of the dwelling. *Chandler testimony; Petitioner Exhibits 5-6.* Many of the items on the list are set forth in a conclusory manner, such as "the linen closet is falling apart," "cabinet drawers are coming apart," and "the cheap tub surround is gross." *Petitioner Exhibit 5.* Such conclusory statements do little to describe the actual condition of the interior of the dwelling. Other items on the list, however, are sufficiently specific to provide some idea of the level of deterioration of the interior of the house, such as "the kitchen floors had big cracks in the surface," and "the bathroom floor has big cracks in the surface and underlayment." *Id.*
- e. Based on the foregoing, the Petitioner made a prima facie case for a reduction in the condition rating assigned to the subject dwelling from "Average" to "Fair." The Respondent did not attempt to impeach or rebut the Petitioner's evidence concerning the deteriorated condition of the subject dwelling. The preponderance of the evidence therefore establishes an error in assessment based upon the assignment of an incorrect condition rating.

#### **Conclusion**

- 15. The Petitioner did not make a prima facie case for a reduction in the assessed value of the subject property based on the 2003 sale price. The Board finds for the Respondent on that issue.
- 16. The preponderance of the evidence supports a change in the condition rating assigned to the subject dwelling from "Average" to "Fair." The Board finds for the Petitioner on that issue.

## 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 reduce the condition rating assigned to the subject dwelling from “Average” to “Fair” and that the total assessed value should be changed accordingly.

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>.