

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition #:** 49-801-02-1-5-10000  
**Petitioners:** Theratha & Louistine Fields  
**Respondent:** Washington Township Assessor Marion County  
**Parcel #:** 8-021940  
**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 Petitioners initiated an assessment appeal with the Marion County Property Tax Assessment Board of Appeals (the PTABOA) by filing a form 130 petition dated August 28, 2003.
2. The Petitioners received notice of the PTABOA's decision on October 22, 2004.
3. The Petitioners filed a Form 131 with the county assessor on November 4, 2004, initiating an appeal with the Board. Petitioners elected to have this case heard as a small claim.
4. The Board issued a notice of hearing to the parties dated October 4, 2005.
5. The Board held an administrative hearing on November 8, 2005, before the duly appointed Administrative Law Judge Paul Stultz (the ALJ).
6. The persons present and sworn as witnesses at the hearing were Theratha Fields, property owner, and Joline Ohmart, Washington Township Assessor.

**Facts**

7. The property is a single-family residence located at 2515 East 40<sup>th</sup> Street in Indianapolis.
8. The ALJ did not conduct an on-site inspection of the property.
9. Assessed value as determined by the Marion County PTABOA:  
Land \$6,400                      Improvements \$31,200.
10. Petitioners did not request a specific assessed value for land or improvements.

### **Issue**

11. Summary of Petitioners' contentions in support of alleged error in assessment:
  - a) Petitioners contend the grade assigned to the subject property is incorrect. *Fields testimony.*
  - b) Petitioners contend they could not sell this property for as much as it is assessed. *Id.*
12. Summary of Respondent's contentions in support of the assessment:
  - a) Respondent contends the subject assessment is correct. *Ohmart testimony.*
  - b) Respondent contends Petitioners' argument concerning grade is misguided. *Id.*

### **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 BTR #5992,
  - c) Exhibits:
    - Petitioner Exhibits –None,
    - Respondent Exhibit 1 – Property record card,
    - Respondent Exhibit 2(A-L) – Parcels used to set neighborhood factor,
    - Respondent Exhibit 3 – Summary,
    - Respondent Exhibit 4(A-C) – Form 115,
    - Respondent Exhibit 5(A-D) – Form 131,
    - Board Exhibit A – Form 131,
    - Board Exhibit B – Notice of Hearing,
  - d) These Findings and Conclusions.

### **Analysis**

14. The most applicable governing 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 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.
15. The Petitioners failed to establish a prima facie case. This conclusion was arrived at because:

#### Changes From Previous Assessment

- a) Changes to the current reassessment increased its assessed value by 53.9%, but no changes had been made to the property itself. Each assessment and each tax year stands alone. *See Thousand Trails Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 1072, 1077 (Ind. Tax Ct. 2001). Therefore, changes from a prior assessment are not probative evidence regarding the current assessment and they are not probative evidence of what the assessment should be.
- b) Petitioners presented no probative evidence to indicate the market value of the property is lower than the currently assessed value. For example, no appraisal or sales comparison approach was introduced to establish the market value-in-use of the subject property, or comparable properties as of January 1, 1999. Conclusory statements that the property would not sell for as much as the assessed value are not probative evidence. *Whitley Products v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

#### Grade

- c) Petitioners presented no probative evidence to support a grade change. Even though petitioners presented testimony about a leaky basement, Petitioners failed to prove how this fact relates to a lower grade.
- d) Petitioners presented no probative evidence to show or explain how the grade currently assigned is in error. For example, no comparison to similar properties was introduced to prove an error in grade.

### Condition

- e) Average condition means that normal wear and tear is apparent in a building. It has average attractiveness and desirability. There are typically minor repairs that are needed along with some refinishing. In this condition, most of the major components are still viable and are contributing to the overall utility and value of the property. Real Property Assessment GUIDELINES for 2002—Version A, ch. 3 at 60 (incorporated by reference at 50 IAC 2.3-1-2).
- f) Fair condition means that marked deterioration is evident in a structure. It is rather unattractive or undesirable but still quite useful. This condition indicates that there are a substantial number of repairs needed. Many items need to be refurbished, overhauled, or improved and deferred maintenance is obvious. *Id.*
- g) Poor condition means definite deterioration is obvious in a structure. It is definitely undesirable or barely useable. Extensive repair and maintenance are needed on painted surfaces, the roof, and the plumbing and heating systems. There may be some functional inadequacies or substandard utilities. There is extensive deferred maintenance. *Id.*
- h) The Petitioners presented testimony about a leaky basement. This type of wear and tear is consistent with that of a building in average condition. Petitioner may have established a need for a minor repair, but a leaky basement alone does not arise to the level of downgrading a building to fair or poor condition.
- i) The Board determines the condition should remain as average.

### **Conclusion**

16. The Petitioner failed to make a prima facie case. The burden never shifted to the Respondent to rebut. The Board finds in favor of 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. 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>.