

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-016-02-1-5-00342  
**Petitioner:** Larry W. Hoffman  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 006-27-0011-0059  
**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 January 7, 2004, in Lake County, Indiana. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property is \$88,700, and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 22, 2004.
3. The Board issued a notice of hearing to the parties dated November 15, 2004.
4. A hearing was held on December 15, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is located at 1402 Rand Street, Hobart, in Hobart Township.
6. The subject property is a single family residence.
7. The Special Master did not conduct an on-site visit of the property.
8. The DLGF determined that the assessed value of the subject property is \$15,300 for the land and \$73,400 for the improvements for a total assessed value of \$88,700.
9. The Petitioner requests a value of \$15,300 for the land and \$66,600 for the improvements for a total value of \$81,900.

10. Larry W. Hoffman, Petitioner, and Phillip Raskowski, representing the DLGF, appeared at the hearing and were sworn in as witnesses.

### **Issues**

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
- a) In 1999, the subject property was listed for sale for \$84,900. *Hoffman testimony*. The home actually sold in August, 1999 for \$81,900, but the sale fell through because the buyer's loan company refused to finance the home. *Id*; *Pet'r Ex. 2*.
  - b) The home is being assessed for a rear patio that is in bad shape. *Hoffman testimony*; *Pet'r Ex. 5*. The fireplace cannot be used. *Hoffman testimony*; *Pet'r Ex. 3*. Also, the basement wall is cracked. *Hoffman testimony*; *Pet'r Ex. 4*. The home did not have a new \$7,500 roof in 1999; the new roof was installed in 2003. *Hoffman testimony*.
  - c) The grade of C+1 is incorrect. *Hoffman argument*. The home is not above average or in an above average neighborhood. *Hoffman testimony*.
  - d) CLT did not come inside the home to assess. *Id*. The assessment was merely based on a previous assessment. *Hoffman argument*.
12. Summary of Respondent's contentions in support of the assessment:
- a) The subject is assessed at \$88,700 for 1,576 square feet. *Raskowski testimony*. The price per square foot is \$56.28. *Id*.
  - b) The most comparable properties in the neighborhood are assessed at an average of \$77.03 per square foot. *Id*. The average time adjusted sale price of the comparables is \$91,816.50. *Id*. Therefore, the Respondent is comfortable with the value assigned to the subject. *Id*.
  - c) If a fireplace exists on a property, it is normally assessed, even if it is not used. *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 Lake Co 1181.
  - c) Exhibits:
    - Petitioner Exhibit 1: Form 139L
    - Petitioner Exhibit 2: 1999 Sales Contract
    - Petitioner Exhibits 3: Photographs of Fireplace

Petitioner Exhibit 4: Photographs of Basement Wall  
Petitioner Exhibit 5: Photographs of Patio

Respondent Exhibit 1: Form 139L  
Respondent Exhibit 2: Subject Property Record Card  
Respondent Exhibit 3: Subject Photograph  
Respondent Exhibit 4: Comparable Sheet  
Respondent Exhibit 5: Comparable Property Record Cards and Photographs

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

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 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”).
  - 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 Petitioner provided sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
- a) The Petitioner contends that the subject property should be assessed for \$81,900. In support of this contention, the Petitioner submitted a 1999 sales contract showing that the property actually sold for that amount, but the deal eventually fell through. *Pet’r Ex. 2*. In addition, the Petitioner contends that the grade is too high, and contends that the assessment fails to reflect the conditions of the fireplace, the rear patio, and the basement wall.

- b) Regarding the Petitioner's contentions concerning condition and grade, the Petitioner has merely made conclusory statements that the condition and grade are incorrect. The Petitioner has neither specified, nor given any evidence in support of, what the correct condition and grade should be. Conclusory statements are of no value to the Board in making its determination. *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1119, 1120 (Ind. Tax Ct. 1998).
- c) Regarding the total assessed value of the property, the 2002 Real Property Assessment Manual ("Manual") defines the "true tax value" of real estate as "the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property." 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). The Manual further provides that for the 2002 general reassessment, a property's assessment must reflect its market value-in-use as of January 1, 1999. MANUAL at 4.
- d) The sale of a subject property is often the most compelling evidence of its market value. In this case, the close proximity of the sale to the January 1, 1999, valuation date gives the sale further probative value as evidence of the market value of the subject property.
- e) The fact that the potential buyer's loan company refused to finance the home has little, if any, bearing on the fact that a willing buyer and seller agreed on a 1999 purchase price of \$81,900 for the subject property. As such, the Petitioner has made a prima facie case, and the burden shifts to the Respondent to defend the assessment.
- f) The Respondent defends the assessment utilizing an analysis of comparable properties. The average time adjusted sale price of comparable properties calculated by the Respondent is \$91,816.50. *Raskowski testimony*. This seems to support the current assessment of \$88,700.
- g) The Board, however, generally deems the actual sale of a subject property to be a more reliable factor in valuing the subject than an analysis of comparable properties. Thus, the Board finds the Petitioner's evidence more probative than the Respondent's as to the value of the subject property.
- h) Therefore, the Board hereby concludes that the assessment should be lowered to \$81,900.

### **Conclusion**

16. The Petitioner made a prima facie case that the property was overvalued in its assessment. The Petitioner's evidence is determined to be more probative than the Respondent's evidence in support of the assessment. The Board finds in favor of the Petitioner.

## 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 \$81,900.

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>>.