

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-5-00062A  
**Petitioner:** Gerald L. Barnes  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001-25-46-0106-0007  
**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 Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property was \$145,200 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 7, 2004
3. The Board issued a notice of hearing to the parties dated February 21, 2005.
4. Special Master Peter Salveson held a hearing on March 23, 2005, in Crown Point, Indiana.

### Facts

5. The subject property is located at 7231 Oak Avenue, Gary. The location is in Calumet Township.
6. The subject property is a single-family home on 0.142 acres of land.
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 \$37,800            Improvements \$107,400            Total \$145,200.
9. Assessed value requested by Petitioner:  
Land \$37,800            Improvements \$ 85,610            Total \$123,410.
10. Persons sworn in as witnesses at the hearing:

Gerald L. Barnes, Owner  
Terry Knee, Field Representative, DLGF.

### **Issues**

11. The Petitioner contends that assessment is incorrect in the measurements of finished living area for the dwelling. The Petitioner presented sketches of the subject property to show that the subject property does not have 1760 square feet as the property record card indicates. The Petitioner contends that 480 of the 1760 square feet currently being assessed as finished living area should be treated as unfinished basement area. The Petitioner testified that the 480 square feet portion in question is an underground shed that was built by the Petitioner. *Barnes Testimony and Petitioner's Exhibits 1- 3.*
12. The Respondent agrees to the change recommended by the Petitioner. The Respondent recommends that the total finished living area for the dwelling be changed to 1280 square feet and that 480 square feet be added as exterior feature basement. The total assessment is then \$121,600. *Knee 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 County 1367,
  - c. Exhibits:
    - Petitioner Exhibit 1: Sketch of subject property-side view,
    - Petitioner Exhibit 2: Sketch of subject property-top view,
    - Petitioner Exhibit 3: Subject property record card-corrected,
    - Respondent Exhibit 1: Form 139L Petition,
    - Respondent Exhibit 2: Subject property record card,
    - Respondent Exhibit 3: Subject property photo,
    - Respondent Exhibit 4: Comparable sales and property record cards,
    - Respondent Exhibit 5: Neighbor's property record card,
    - Respondent Exhibit 6: Homeowner's second parcel,
    - Board Exhibit A: Form 139L Petition,
    - Board Exhibit B: Notice of Hearing,
    - Board Exhibit C: Sign-In Sheet
  - 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, by preponderance of the evidence, 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. Wash. 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 contention. The Respondent recommended a correction based on the Petitioner's contention. This conclusion was arrived at because:
- a. The Petitioner provided evidence that the current assessment was incorrect regarding the total area considered to be finished living area. The Petitioner contended that the finished living area be changed to 1280 square feet and that the 480 square feet in question be treated as unfinished basement. *Barnes testimony; Petitioner Exhibits 1 - 3*.
  - b. The Respondent recommended that the total finished living area for the dwelling be changed to 1280 square feet and that 480 square feet be added as basement garage. This changes the assessed value of the improvements to \$102,900. *Knee testimony*.
  - c. The Respondent also apparently noted that the land value was incorrectly shown in the valuation record as \$37,800, but was actually \$18,700 under "land data and computations". The land should be changed to \$18,700. This results in a total assessed value of \$121,600. *Knee testimony*.

### **Conclusions**

16. The Petitioner made a prima facie case. The Respondent did not rebut the Petitioner's testimony and other evidence. In addition the Respondent identified a correction to the land value that lowers the land assessment to \$18,700. The Board finds in favor of the Petitioner and concludes that the total finished living area for the dwelling should be changed to 1280 square feet and that 480 square feet be added as exterior feature basement. The assessment should be changed to \$121,600.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed.

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>.