

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-016-02-1-4-00211  
**Petitioner:** Robert Luckiewicz  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 006-27-17-0017-0080  
**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 informal hearing as described in Ind. Code § 6-1.1-4-33 was held. The Department of Local Government Finance (the "DLGF") determined the tax assessment for the subject property and notified the Petitioner on March 26, 2004.
2. The Petitioner filed the Form 139L on April 26, 2004.
3. The Board issued the notice of hearing to the parties dated March 7, 2005.
4. Special Master Kay Schwade held the hearing in Crown Point on April 7, 2005.

### Facts

5. The subject property is located at 905 W. 47<sup>th</sup> Avenue in Hobart.
6. The subject property is a mobile home park on 3.778 acres of land.
7. The Special Master did not conduct an on-site inspection of the property.
8. The assessed value as determined by the DLGF:  
Land \$338,400                      Improvements \$104,000                      Total \$442,400.
9. The assessed value requested by Petitioner:  
Land \$276,000                      Improvements \$82,800                      Total \$358,800.
10. Persons present and sworn in at hearing:  
For Petitioner – Robert Luckiewicz, owner, and R. G. White, tax consultant,  
For Respondent – Stephen Yohler, assessor/auditor.

## Issue

11. The Petitioner contends the land value is excessive because .488 acres is not useable due to utility easements, public right of way, and drainage culverts and should be removed from the total acreage. *White testimony*. Although the Form 139L stated additional issues regarding the value of the improvements, the Petitioner did not present any evidence or make any argument in support of those claims at the hearing.<sup>1</sup>
12. Summary of Respondent's contentions in support of the assessment:
  - a) The DLGF acknowledged an error in land value and recommended changing the land classification of the 3.278 acres used for the mobile home park from primary commercial land to useable/undeveloped commercial land. *Yohler testimony; Respondent Exhibit 5*. The proposed land calculation also changes the base rate for the 0.5 acres classified as unuseable/undeveloped from \$25,119 an acre to \$21,060 an acre<sup>2</sup>. *Respondent Exhibit 5*. The total land value should be \$277,700 rather than \$338,400. *Yohler testimony; Respondent Exhibit 5*.
  - b) The mobile home park value is incorrect. *Yohler testimony*. The grade of the mobile home park should be a "C" rather than a "D" grade. *Yohler testimony; Respondent Exhibit 5*. The DLGF proposed changing the mobile home park value from \$39,700 to \$49,700. *Yohler testimony; Respondent Exhibit 5*.

## 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 1382,
  - c) Exhibits:
    - Petitioner Exhibit 1 – A summary of the issues,
    - Petitioner Exhibit 2 – Five photographs of the subject property,
    - Petitioner Exhibit 3 – Subject property record card,
    - Petitioner Exhibit 4 – Plat map showing the subject property,
    - Petitioner Exhibit 5 – Tax bill due July 2004,
    - Petitioner Exhibit 6 – A copy of the statement of the basis for just compensation,
    - Petitioner Exhibit 7 – Form 139L,
    - Petitioner Exhibit 8 – Power of attorney,
    - Respondent Exhibit 1 – Subject property record card,
    - Respondent Exhibit 2 – A photograph of the subject property,

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<sup>1</sup> Therefore, the Board will not address those issues with specific findings. If the Board were to make a determination on those claims, it would simply note the Petitioner's failure to present a prima facie case.

<sup>2</sup> Respondent Exhibit 5 shows that the value of the 0.5 acres of unuseable/undeveloped land is \$10,530; therefore, the per acre base rate of unuseable/undeveloped land is \$21,060 (0.5 acres times \$21,060 is \$10,530).

Respondent Exhibit 3 – Plat map for the subject property’s area,  
Respondent Exhibit 4 – Land value calculation and neighborhood summary sheet,  
Respondent Exhibit 5 – Property Record Card with proposed changes,  
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 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. There is sufficient evidence to support the Petitioner’s contentions regarding land value. This conclusion was arrived at because:

#### *Land Value*

- a) The DLGF acknowledged that an error was made in calculating the land value. The corrections proposed by the DLGF result in a total land value of \$277,700. The Petitioner agrees that the proposed land value recommended by the DLGF is correct and acceptable. The land value will be changed to \$277,700.

#### *Improvement Value*

- b) While the DLGF raised issue with the current improvement value, the DLGF did not present any probative evidence justifying an increase in the value of the mobile home park. Other than Mr. Yohler’s conclusory testimony and handwritten notes on the property record card, the DLGF failed to explain why the mobile home park grade

should be changed from “D” to “C”. As the party challenging the assessment of the mobile home park, the burden was on the DLGF to justify its claim that the value of the mobile home park should be increased. The DLGF failed to meet this burden.

### **Conclusions**

16. The evidence establishes that a change must be made to the land value. The Board finds in favor of the Petitioner on that issue. The Respondent failed to offer probative evidence to support its claim for a grade change. There will be no change regarding 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.

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 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>.**