

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-00867  
**Petitioner:** Paul Vercel  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 007243000500012  
**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 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$55,000 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 27, 2004.
3. The Board issued a notice of hearing to the parties dated May 25, 2005.
4. A hearing was held on June 27, 2005, in Crown Point, Indiana before Special Master Joan Rennick.

### Facts

5. The subject property is a residential single-family dwelling located at 4122 Magoun Avenue, East Chicago, North Township.
6. The Special Master did not conduct an on-site visit of the property.
7. Assessed Value of subject property as determined by the DLGF:  
Land \$13,700            Improvements \$41,300            Total \$55,000
8. Assessed Value requested by Petitioner on Form 139L petition:  
Land \$7,000            Improvements \$20,000            Total \$27,000
9. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

10. Persons sworn in at hearing:

For Petitioner: Paul Vercel, Owner

For Respondent: Steve McKinney, DLGF

**Issues**

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:

- a) The assessment is excessive compared to a professional appraisal done for the subject property. The Petitioner presented an Appraisal Report estimating the market value of the subject property to be \$26,500 as of October 31, 2001. *Vercel testimony; Pet'r Ex. 13.*
- b) The Petitioner used the Lake County Time Adjustment Sale Price Multipliers for North Township to trend the appraised value to January 1, 1999. The appraised value of \$26,500 multiplied by the trending multiplier of .926 results in a value of \$24,539 as of January 1, 1999. *Vercel testimony; Pet'r Ex. 14.*
- c) There are mistakes on the property record card. The property record shows 6 rooms. The appraisal report confirms there are only 5 rooms. *Vercel testimony; Pet'r Ex. 13.*
- d) The subject property is in very poor condition and is not rentable. The appraisal report shows the subject property in very poor condition and in need of \$16,500 worth of work. The subject property needs to be completely rewired because it is knob and tube with cloth covered wiring. The water pipes need to be replaced; they have become clogged due to low water pressure. The original back door is deteriorated, the basement wash tubs are cracked, and the attic has the original insulation. The kitchen flooring, sink, and faucets are badly worn, and the counter is all cut up. The windows are original and do not open. The exterior of the house needs tuck pointing, the front porch steps need replaced, and the roof shingles are deteriorating. There was no furnace or air conditioning in 2002. *Vercel testimony; Pet'r Ex. 13.*
- e) The neighborhood is declining. There are vacant or abandoned houses in the neighborhood. The Petitioner presented complaints from the East Chicago Building Department. *Vercel testimony; Pet'r Ex. 21.*
- f) The grade of the subject house was changed from a "D-2" to a "C-1." The subject garage was changed from an "E-1" to a "D." The Petitioner contends the subject house should be graded at "E" based on the grade specification table and grade chart guidelines. The subject house is a tract house similar to other houses in the neighborhood. The Petitioner went through the grade specification table and found

just about everything was an “E” grade and “D” grade. *Vercel testimony; Pet’r Exs. 2 - 5.*

- g) The Petitioner contends the comparables submitted by the Respondent are in better condition than the subject property. *Vercel testimony.*

12. Summary of Respondent’s contentions in support of the assessment:

- a) The Respondent presented the property record card and a photograph of the subject property. *McKinney testimony; Resp’t Exs. 2, 3.*
- b) The Respondent presented the Top 20 Comparables and Statistics. The Respondent chose the three most comparable properties which sold in the subject neighborhood and attached property record cards and photographs. *McKinney testimony; Resp’t Exs. 4, 5.*
- c) The assessment of the subject property is fair and consistent with sales in the subject neighborhood. *McKinney testimony.*
- d) The appraisal report presented by the Petitioner looks more like an opinion of value than an actual appraisal. *McKinney 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 BTR #1791.
- c) Exhibits:
  - Petitioner Exhibit 1: Grade Specification Table.
  - Petitioner Exhibits 2 - 4: Table A-3, Quality Grade.
  - Petitioner Exhibit 5: Table A-2, Quality Grade Factors.
  - Petitioner Exhibit 6: App. A, Grade photographs.
  - Petitioner Exhibits 7 - 9: Subject Property Record Cards (PRC) 2001 – 2003.
  - Petitioner Exhibit 10: PRC of 4110 Magoun Ave.
  - Petitioner Exhibit 11: Residential Depreciation Table [50 IAC 2.2].
  - Petitioner Exhibit 12: Table B-4, Residential Depreciation Chart.
  - Petitioner Exhibit 13: Appraisal Report dated 10/31/02.
  - Petitioner Exhibit 14: Lake County Time Adjustment Sale Price Multipliers – North Township.
  - Petitioner Exhibit 15: Job Invoices.
  - Petitioner Exhibit 16: Pictures (19).
  - Petitioner Exhibit 17: Receipt from J&M Heating and Cooling Inc.
  - Petitioner Exhibit 18: Disbursements showing cost of furnace and appraisal.

Petitioner Exhibit 19: Photographs of Deteriorated and Abandoned houses on the block.

Petitioner Exhibit 20: IC 36-7-9-4.5 Unsafe Building Law.

Petitioner Exhibit 21: East Chicago Building Department Complaint Reports.

Petitioner Exhibit 22: Form 139L Petition.

Respondent Exhibit 1: Form 139L.

Respondent Exhibit 2: Subject PRC.

Respondent Exhibit 3: Subject Photo.

Respondent Exhibit 4: Top 20 Comparables and Statistics.

Respondent Exhibit 5: Comparable PRCs 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 Township 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 Township 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 did not provide sufficient evidence to support his contentions. This conclusion was arrived at because:

- a) The Petitioner contends the assessment of the subject property is excessive based on a professional appraisal. The Petitioner presented an Appraisal Report valuing the subject property at \$26,530 as of October 31, 2002. *Pet'r Ex. 13*.

- b) The 2002 Real Property Assessment Manual (hereinafter “Manual”) provides that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on an appraisal to establish the market value-in-use of a property must provide some explanation as to how the appraised value demonstrates or is relevant to the property’s value as of January 1, 1999. *See Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (holding that an appraisal indicating the value for a property on December 10, 2003, lacked probative value in an appeal from the 2002 assessment of that property).
- c) The Appraisal Report submitted by the Petitioner is a three page document. The Appraisal Report determines the market value to be \$26,500 as of October 31, 2002. *Pet’r Ex. 13*. The Appraisal Report is not signed and does not say who prepared the document, or the purpose of the document. There is no indication that the Appraisal Report complies with the requirements of the Uniform Standards of Professional Appraisal Practice (USPAP). Attached to the Appraisal Report is a fax cover letter dated April 20, 2005, and a note dated April 29, 2005 with a Residential 3-Up Agent Summary Report showing listings as of April 20, 2005. There was no explanation as to the relevance of the attachments.
- d) Even if the Appraisal Report were probative of the subject property’s market value, the report values the property as of October 31, 2002, more than three years after the relevant valuation date of January 1, 1999. The Petitioner attempted to relate the Appraisal Report to the value as of the subject property as of January 1, 1999. The Petitioner applied a trending adjustment multiplier to the Appraisal Report value as of October 31, 2001. However, the Petitioner applied the multiplier based on February 13, 2001, the date he took possession of the property, not the date of the Appraisal Report. For all of these reasons, the Appraisal Report lacks probative value.
- e) The Petitioner contends the subject property is in very poor condition and is not rentable. The Petitioner provided testimony and some photographs to support his contention. The property record card shows the subject property is currently valued in “Poor” condition.
- f) The REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, Table 3-12 at 60, provides an explanation of the characteristics of each of the condition ratings for residential dwellings.

Poor	Definite deterioration is obvious in the 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.
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Very Poor      Conditions in the structure render it unusable. It is extremely unfit for human habitation or use. There is extremely limited value in use and it is approaching abandonment. The structure needs major reconstruction to have any effective economic value.

- g) The Petitioner described the subject property as needing repair and maintenance on the roof, water pipes, electrical system, furnace and air conditioner which are all characteristics identified by “Poor” condition. The Petitioner has not shown the characteristics of the subject property would best be described as “Very Poor.”
- h) The Petitioner contends the subject property should have an “E” grade based on the grade specification table and grade chart guidelines. *Pet’r Exs. 2 - 4.*
- i) To establish a prima facie case on grade, Petitioners must submit probative evidence that the assigned grade was incorrect and probative evidence establishing the correct grade. *Sollers Pointe Co. v. Dep’t of Local Gov’t Fin.*, 790 N.E.2d 185, 191 (Ind. Tax Ct. 2003). In this case, however, the Petitioner did not present probative evidence that the current grade is wrong or what the correct grade should be.
- j) The Petitioner presented a copy of the grade specification table with highlighting. The Petitioner highlighted a grade description for most of the categories listed on that table. For example, in the category of roof covering, the Petitioner highlighted the entry under the “E” grade column for “fiberglass or composition shingles.”
- k) Many of features identified by the Petitioner as falling within the description of an “E” grade may also meet the descriptions of “C” and “D” grades. For example, “fiberglass or composition shingles” also meets the roof covering specification for “C” and “D” grades, not just the “E” grade highlighted by the Petitioner. *See Guidelines, Appendix A at 10-14.*
- l) The Petitioner argued that this predominance of “E” grade features supported the conclusion that the appropriate grade for the subject house is “E.” However, it should be noted that whenever a description met the specification for more than one grade, the Petitioner highlighted the lowest grade. Moreover, the Petitioner did not discuss the features of the subject property; he merely presented the highlighted grade specification table asserting the features matched the highlighted descriptions.
- m) The Petitioner cannot establish a prima facie case on grade based only on conclusory statements. *See Whitley Prods., Inc. v. State Bd. of Tax Comm’rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- n) The Petitioner did not identify any specific instances where a similar or comparable residence received the grade that is sought. The Petitioner stated that other houses in

the neighborhood were similar, but did not present property record cards of the neighboring houses to show the grade assigned to them.

- o) The Petitioner presented the property record card showing the grade from the prior assessment. However, in Indiana each tax year stands alone. Evidence of a prior year's assessment does not constitute probative evidence. *Quality Farm & Fleet, Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 88, 93 (Ind. Tax 2001).
- p) The Petitioner failed to provide sufficient evidence to prove that the grade of "C-1" is wrong or that the proper grade is "E."

### **Conclusions**

#### Valuation

- 16. The Appraisal Report lacks probative value. The Petitioner failed to make a prima facie case. The Board finds in favor of Respondent.

#### Condition

- 17. The Petitioner failed to make a prima facie case that the subject property was entitled to a lower condition rating. The Board finds in favor of the Respondent.

#### Grade

- 18. The Petitioner failed to make a prima facie case that the grade is incorrect. 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>>.