

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-01835  
**Petitioner:** Rodrigo Arreola  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 007-28-29-0003-0038  
**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 \$71,800 and notified the Petitioner.
2. The Petitioner filed a Form 139L on August 6, 2004.
3. The Board issued a notice of hearing to the parties dated June 13, 2005.
4. Special Master Peter Salveson held a hearing on July 14, 2005, in Crown Point, Indiana.

### Facts

5. The subject property is located at 1515 Fred Street, Whiting. The location is in North Township.
6. The subject property is single-family dwelling on of 0.071 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 \$13,100            Improvements \$58,700            Total \$71,800.
9. Assessed value requested by Petitioner on the Form 139L:  
Land \$ 6,000            Improvements \$66,000            Total \$72,000.<sup>1</sup>

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<sup>1</sup> Petitioner also noted on the form 139L that he purchased the property for \$55,000 in 1999.

10. Persons sworn in as witnesses at the hearing:  
Rodrigo Arreola, Owner,  
Everett Davis, Assessor/Auditor, DLGF.

### **Issues**

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
  - a. The Petitioner contends that the assessment of the subject property is too high. The Petitioner testified that he purchased the subject property in October 1999 for \$55,000. The Petitioner presented a title insurance policy for the amount of \$55,000 and a closing statement for the purchase of the subject property dated March 27, 2003. *Arreola testimony; Attachments to Board Exhibit A.*
  - b. The Petitioner also testified that his purchase of the subject property was an arm's-length transaction. *Arreola testimony.*
12. Summary of Respondent's contentions:
  - a. The Respondent noted that the evidence presented by the Petitioner did not show who the seller was in the transactions. The Respondent argued that the purchase of the subject property by the Petitioner might not have been an arm's-length transaction. *Davis testimony; Attachments to Board Exhibit A.*
  - b. The Respondent presented three comparable sales to support the current assessment and contends that the comparable sales support the current assessment. The Respondent noted that the first comparable was actually the subject property. *Davis testimony; Respondent Exhibit 3.*
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 1878,
  - c. Exhibits:
    - Respondent Exhibit 1: Subject property record card,
    - Respondent Exhibit 2: Subject property photo,
    - Respondent Exhibit 3: Comparable Sales Sheets
    - Respondent Exhibit 4: Comparable property record cards and photos,

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 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 Petitioner did provide sufficient evidence to support the Petitioner’s contentions. The Respondent failed to rebut the Petitioner’s contentions. This conclusion was arrived at because:
- a. The Petitioner testified that the subject property had been purchased in October 1999 for \$55,000. *Arreola testimony*. The Petitioner presented a copy of the title insurance policy showing the amount of \$55,000 to support this testimony. *Attachment to Board Exhibit A*.
  - b. The Petitioner made a prima facie case that the current assessment of \$71,800 is incorrect because the current assessment is much higher than the fair market value of the subject property.
  - c. The Respondent questioned the Petitioner’s purchase and presented comparable sales to support the current assessment. However, the Petitioner’s purchase price of the subject property was listed as a comparable sale for the current assessment. *Respondent Exhibit 3*. The fact that the subject property sale was presented by the Respondent invalidates the argument that the Petitioner’s purchase might not have

been an arms-length transaction.

- d. The Respondent's exhibit also time adjusted the Petitioner's purchase of the subject property to the January 1, 1999, valuation date. The time adjusted sales price was calculated to be \$53,698. *Id.*

### **Conclusion**

16. The Petitioner made a prima facie case. The Respondent failed to rebut the Petitioner's contentions. The Board finds in favor of the Petitioner and concludes that the current assessment should be changed to \$53,698.

### **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: February 2, 2006**

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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>.