

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition:** 45-032-02-1-5-00343  
**Petitioners:** Harry and Grace Lillian Sikma  
**Respondent:** Department of Local Government Finance  
**Parcel:** 009-09-11-0125-0005  
**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 between Petitioners and Respondent on January 30, 2004. The Department of Local Government Finance (the DLGF) determined that Petitioners' property tax assessment for the subject property is \$159,300 and notified the Petitioners on March 26, 2004.
2. Petitioners filed a Form 139L on April 27, 2004.
3. The Board issued a notice of hearing to the parties on November 4, 2004.
4. Special Master Peter Salveson held a hearing on December 7, 2004, in Crown Point, Indiana.

### Facts

5. The subject property is located at 5330 West 73<sup>rd</sup> Avenue, Schererville, in St. John Township.
6. The subject property is a duplex home located on 0.491 acres of land.
7. The Special Master did not conduct an on-site inspection of the property.
8. The DLGF determined that the assessed value of the subject property is \$22,100 for the land and \$137,200 for the improvements for a total of \$159,300.
9. The Petitioners request an assessed value totaling \$134,000.

10. Harry Sikma and Grace Lillian Sikma, the property owners, Joan Schoon, Petitioners' daughter, Lisa Juretic, 21 Century agent and witness for the Petitioner, and Diane Spenos, representing the DLGF, were present at the hearing and were sworn as witnesses.

### **Issue**

11. Summary of Petitioners' contentions in support of alleged error in assessment:
- a) The assessment of an adjacent parcel is different than that of the subject property. Petitioners' property is assessed as a duplex, while the adjacent property is classified as a "2 row type." Petitioners' property does not have some of the amenities of the adjacent property, including air conditioning, laundry facilities, and a utility shed. Petitioners' home was also assessed for more exterior features than the adjacent property. *Schoon testimony; Petitioners Exhibits 2 and 3.*
  - b) The subject property was assessed as a duplex but was also assessed an additional charge of \$5,600 for an extra living unit. Further, the basement is not finished. *Schoon testimony.*
  - c) The home has 784 square feet on one side and 1,224 square feet on the other side, for a total of 2,008 square feet. *Schoon testimony; Petitioners Exhibit 2.*
12. Summary of Respondent's contentions in support of the assessment:
- a) The home is currently assessed for 1,988 square feet of living area. The charge for the extra living unit is to account for the additional costs associated with the unit. *Spenos testimony.*
  - b) Respondent was unable to locate any comparable sales information to present at the hearing. *Id.*
  - c) The value of the subject property was changed as a result of a correction to the neighborhood code. The subject property had been previously listed in the incorrect neighborhood. *Id.*
  - d) Petitioners' structure has different features than the adjacent property, which accounts for the difference in values for exterior features. *Id.*
  - e) The assessment should be changed to value the basement as unfinished. *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. 962,
- c) Petitioners' Exhibit 1 - Form 139L petition,  
Petitioners' Exhibit 2 – Explanations letter (statement of contentions),  
Petitioners' Exhibit 3 – Tax assessment sheets (property record cards) for Petitioners' property and adjacent property,

Respondent's Exhibit 1 - Form 139L petition,  
Respondent's Exhibit 2 - Subject property record card,  
Respondent's Exhibit 3 - Subject property photograph,

Board Exhibit A - Form 139L petition,  
Board Exhibit B - Notice of Hearing,  
Board Exhibit C - Hearing 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 the DLGF 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. Petitioners provided sufficient evidence to support their contention that the basement was improperly assessed. This conclusion was arrived at because:
  - a) The Petitioners contend that the subject property is over assessed. To support this contention the Petitioners submitted two PRC of “comparable” properties, which the Petitioners claim are similar to the subject property and valued substantial less than the subject property. *Schoon testimony; Petitioner’s Exhibit 3-6*. Petitioners further

- testified that the subject property was assessed differently than the adjacent property, which the Petitioners contend is similar to the subject property. *Schoon testimony*.
- b) Indiana Code section 6-1.1-2-2 requires uniform and equal assessments. Thus, to the extent that Petitioners prove their property is not assessed uniformly or equally to comparable properties, Petitioners' assessment must be equalized. However, "taxpayers are required to make a detailed factual showing at the administrative level." *Home Federal Savings Bank v. Madison Twp. Assessor*, 817 N.E.2d 332 (Ind. Tax Ct. 2004). To meet this showing, "the taxpayer must not only present probative evidence in support of its argument, but it must also sufficiently explain that evidence." *Id.* To introduce evidence of comparable properties, a taxpayer must explain *how* the properties are comparable. See *Blackbird Farms Apts. v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002) (holding that the taxpayer did not present a prima facie case where it provided assessment information for allegedly comparable properties but failed to explain *how* the properties were comparable). Conclusory statements that a property is "similar" or "comparable" to another property do not constitute probative evidence of the comparability of the two properties. See *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 470 (Ind. Tax Ct. 2005). Instead, the proponent must identify the characteristics of the subject property and explain how those characteristics compare to the characteristics of the purportedly comparable properties. *Id.* at 471. The proponent likewise must explain how any differences between the properties affect their relative market values-in-use. *Id.* See also, *Hoogenboom-Nofziger*, 715 N.E.2d at 1024 (holding that taxpayer failed to make prima facie case when he offered conclusory statements and photographs without further explanation); *Lacy Diversified Industries, Ltd. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1220 (Ind. Tax Ct. 2003) (holding that taxpayer failed to make prima facie case when he offered conclusory statements, property record cards, and photographs without further explanation).
- c) In the case at bar, the Petitioners have not met their burden. While Petitioners identify lots that are assessed lower, the Petitioners did not make any attempt to explain why or how the properties are comparable to the subject property. This falls far short of the burden the Petitioners face. The Petitioners have only made a "de minimis factual showing" and have failed to "sufficiently link [their] evidence to the uniform and equal argument [they] raise[s]." See *Home Federal Savings Bank v. Madison Twp. Assessor*, 817 N.E.2d 332 (Ind. Tax Ct. 2004).
- d) Further, the Petitioners contend that they are being charged for a duplex and then being charged additional for an extra living unit. *Schoon testimony*. However, the classification of the structure as a duplex signifies what the structure was designed for, whereas the extra living unit is used to determine the base price of the dwelling. See REAL PROPERTY ASSESSMENT GUIDELINE – VERSION A (GUIDELINE), ch. 3 at 24 and 35. Therefore, the Petitioners are not being assessed twice for the cost associated with the extra living unit.

- e) In addition, the Petitioners testify that the basement of the subject property is not finished, as stated in the PRC. *Schoon testimony*. The Respondent agrees that the basement should be assessed as unfinished. *Spenos testimony*. Accordingly, the Board finds that the assessment for a finished basement should be removed.

### **Conclusion**

16. Based on the Parties' agreement as to the unfinished basement, the Board finds that the basement should be changed from a finished to an unfinished basement. The Petitioners failed to establish a prima facie case as to the remaining issues and the Board finds that no additional changes should be made to the assessment.

### **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>>.**