

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-032-02-1-5-00384  
**Petitioners:** Donna & Edward Goodale  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 009091101560041  
**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 (DLGF) determined that the Petitioners' property tax assessment for the subject property should not be changed and notified the Petitioners of its decision on March 26, 2004.
2. The Petitioners filed a Form 139L on April 26, 2004.
3. The Board issued a notice of hearing to the parties dated October 8, 2004.
4. A hearing was held on November 16, 2004, in Crown Point, Indiana before Special Master Jennifer Bippus.

### Facts

5. The subject property is a single family ranch home located at 138 71<sup>st</sup> Street, Griffith, in St. John 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: \$28,000            Improvements: \$79,500            Total: \$107,500
8. Assessed Value requested by Petitioners on Form 139L:  
Land: \$20,200<sup>1</sup>.

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<sup>1</sup> The Petitioners did not indicate a requested value of improvements or a requested total value on their 139 L petition.

9. Persons sworn in at hearing:

For Petitioners: Donna Goodale, Taxpayer

For Respondent: Anthony Garrison, DLGF Representative

**Issues**

10. Summary of Petitioners' contentions in support of alleged error in assessment:

- a) The assessment of the subject property is too high. The subject dwelling should be assigned a condition rating of "fair" rather than "average," and the subject land should be assessed for the same amount as a parcel across the street from the subject property. *Goodale argument.*

Condition

- b) The Petitioners presented photographs of the subject improvements. Ms. Goodale described the photographs as showing the following:

1. The foundation is pulling away from the porch.
2. The garage floor is cracked.
3. The garage is in poor shape.
4. The siding blew off the side of the house during a storm.
5. The front of the house "looks pretty good."
6. The kitchen door has no trim.
7. The kitchen has a temporary sink.
8. The front door has no trim.
9. The front room has no trim around the windows.
10. The basement has no ceiling finish.
11. The bathroom floor has no tile.

*Goodale testimony; Petitioner Ex. 1.*

- c) The Petitioners had purchased new kitchen cabinets; however, the company from which the Petitioners bought the cabinets went bankrupt and the Petitioners did not get the cabinets. The Petitioners have not been able to get new cabinets. *Goodale testimony.*

- d) A dwelling across the street is comparable to the subject property. That dwelling is listed as being in "fair" condition while the subject property is listed as being in "average" condition. *Goodale testimony; Petitioner Exs. 2-3.*

- e) The Petitioners presented a copy of an installment agreement showing that they purchased the subject property for \$58,000 in 1993. The Petitioners knew the seller. *Goodale testimony; Petitioner Ex. 4.*

### Land

- f) The DLGF applied a negative influence factor of forty percent (40%) to a parcel across the street from the subject property. The subject parcel received a negative influence factor of only ten percent (10%) despite the fact that the two parcels are the same. The neighboring parcel is assessed for \$8,000 less than the subject parcel. *Petitioner Exs. 2-3; Goodale testimony.*
- g) There are manmade lakes all over the area. The neighbors have built up their properties. The water has nowhere to go and the subject property floods. There are dumping grounds all around the lakes. *Goodale testimony; Petitioner Exs. 1, 7.*
- h) The PRC for the subject property understates the subject parcel's depth by thirty feet (30'). Ms. Goodale testified that a road is located on that portion of the property. The Petitioners presented a copy of the warranty deed for the subject property showing the land as 125' by 329.95'. The ownership section of the PRC lists the dimension of the subject property as 125' x 299.97'. The Land and Data Computation section of the PRC shows that the Petitioners are assessed for 125' x 314'. The PRC for a neighboring property shoes the full dimensions for that property, including the portion devoted to the road. *Goodale testimony; Petitioner Exs. 2, 8.*

11. Summary of the Respondent's contentions in support of the assessment:

- a) The Respondent presented a listing of properties purportedly comparable to the subject property. The Respondent presented PRCs and photographs of what it believed to be the three properties most comparable to the subject property. The Respondent was unable to find comparable properties in the same neighborhood as the subject property. The comparables are also bi-level homes, not ranch homes like the subject property. *Garrison testimony.*
- b) The total adjusted sale price per square foot of the top three comparables is \$88.54 per square foot. The subject property is assessed at \$83.85 per square foot. *Garrison testimony; Respondent Ex. 4.*

### **Record**

12. The official record for this matter is made up of the following:

- a) The Petition.
- b) The tape recording of the hearing labeled Lake #1040.

c) Exhibits:

Petitioner Exhibit 1: Photographs of the subject property.  
Petitioner Exhibit 2: Copy of property record card for subject property.  
Petitioner Exhibit 3: Copy of property record card for 137 E 71<sup>st</sup> Ave.  
Petitioner Exhibit 4: Copy of contract purchase for the subject property in 1993.  
Petitioner Exhibit 5: Copy of plat of the subject area.  
Petitioner Exhibit 6: Copy of property record card for 128 W 71<sup>st</sup> Ave.  
Petitioner Exhibit 7: Copy of maps showing lakes in surrounding area.  
Petitioner Exhibit 8: Copy of warranty deed for subject property.  
Petitioner Exhibit 9: Copy of Form 139L.  
Petitioner Exhibit 10: Copy of Form 11 along with Notice of Final Assessment.

Respondent Exhibit 1: Copy of Form 139L.  
Respondent Exhibit 2: Subject property record card.  
Respondent Exhibit 3: Subject photograph.  
Respondent Exhibit 4: Comparable analysis sheet.  
Respondent Exhibit 5: Comparable property record cards and photographs.

Board Exhibit A: Form 139L Petition.  
Board Exhibit B: Notice of Hearing on Petition.

d) These Findings and Conclusions.

### Analysis

13. The most applicable governing cases and regulations 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.

14. The Petitioners did not provide sufficient evidence to support their contentions with regard to the condition ratings assigned to the subject improvements. This conclusion was arrived at because of the following:

- a) The Petitioners contend the subject dwelling should be assessed as being in “fair condition.” The Petitioners provided testimony and photographs in support of their contention.
- b) The Real Property Assessment Guidelines for 2002 – Version A (“Guidelines”) recognize that similar structures tend to depreciate at about the same rate over their economic lives. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, app. B at 6 (incorporated by reference at 50 IAC 2.3-1-2). However, the manner in which owners maintain structures can influence their rate of depreciation. *Id.* Consequently, the Guidelines require assessing officials to assign a condition rating to each structure they assess. *Id.* at 6-7. The condition rating, in turn, affects the amount of depreciation applied to each structure. For example, a structure with a condition rating of “average” depreciates at a slower rate than does a structure with a condition rating of “fair.” *Id.* at 6-13.
- c) The Guidelines provide the following descriptions to assist assessors in assigning condition ratings to residential improvements.

Average	Normal wear and tear is apparent in the building. It has average attractiveness and desirability. There are typical minor repairs that are needed along with some refinishing. In this condition, most of the major components are still viable and area contributing to the overall utility and value of the property.
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Fair	Marked deterioration is evident in the structure. It is rather unattractive or undesirable but still quite useful. This condition indicates that there are a substantial number of repairs that are needed. Many items need to be refurbished, overhauled, or improved. There is deferred maintenance that is obvious.
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GUIDELINES, ch. 3 at 60.

- d) The photographs presented by the Petitioners show missing trim around windows and doors, lack of a tile floor in the bathroom, lack of kitchen cabinets, and missing siding. *Petitioners Ex. 1*. While the subject dwelling needs some repairs, the Petitioners did not show there were “a substantial number of repairs needed.” GUIDELINES, ch. 3, at 60. Furthermore, the Petitioners did not show that the dwelling suffers from “marked deterioration.”
- e) The Petitioners also pointed to the lack of ceiling finish in the basement. A review of the subject PRC, however, shows that the Petitioners are being assessed for an unfinished basement. *Petitioner Ex. 2*.

- f) Ms. Goodale also testified that the garage is in poor shape and the floor is cracked. The PRC for the subject property, however, shows that the garage is already assessed as being in “poor” condition. *Petitioner Ex. 2.*
  - g) The Petitioners also demonstrated that a dwelling across the street from the subject property is assessed as being in “fair” condition. The Petitioners, however, did not present any evidence to show that such dwelling is comparable to the subject dwelling.
  - h) Based on the foregoing, the Petitioners failed to establish a prima facie case that the condition rating assigned to the subject dwelling should be changed to “fair.”
15. The Petitioners did not provide sufficient evidence to support their contentions concerning the assessment of the subject land. This conclusion was arrived at because of the following:
- a) The Petitioners contend the land is incorrectly assessed because a neighboring property has a negative influence factor of forty percent (40%), while the subject property received a negative influence factor of only ten percent (10%). *Goodale argument.*
  - b) The PRCs for the two properties indicate that they both received negative influence factors based upon “excess frontage.” *Petitioner Exs. 2, 3.* The properties, however, are located in different neighborhoods for assessment purposes. The subject property is located in neighborhood 02044 while the neighboring property is located in neighborhood 02046. *Id.* Because the properties are located in different neighborhoods, the base rates at which the two properties are valued differ. *Id.*
  - c) Moreover, even if the two properties were located in the same neighborhood, the Petitioners’ evidence, at best, would show only that one of the two properties is assessed incorrectly without shedding any light upon which of the two assessments is incorrect.
  - d) The Petitioners also contend the subject property floods. To support this contention, the Petitioners presented evidence to show that there are several lakes in the area of the subject property. The Petitioners also presented photographs showing water standing in the yard. The Petitioners did not state how often the subject property floods or present any evidence to quantify what effect the flooding has on the market value-in-use of the subject property.
  - e) Finally, Ms. Goodale expressed concern that the 299.97’ feet of depth listed on the PRC for the subject property is incorrect and that this discrepancy may cause the Petitioners to lose rights to their land. According to Ms. Goodale, this portion of the land is a road that the Petitioners use to access the subject dwelling. Ms. Goodale did not indicate whether the road is a public right of way or other form of easement.

- f) The property record card for the subject property shows 125' x 299.97' in the ownership box and shows 125' x 314' under the Land Data and Computations. The warranty deed shows 125' x 329.97'. It is possible that the omitted portion represents land owned by the Petitioners, but which is burdened by a public right-of-way that is used and occupied as a public highway. In such a case, the land should be assessed to the Petitioners, but its value should be subtracted from the total value of the subject land. *See* GUIDELINES, ch. 2 at 28. Otherwise, it is possible that the omitted portion should be valued as part of the subject property, although possibly with a negative influence factor to account for any loss of value posed by existence of the right of way or easement. Unfortunately, the parties did not shed any light on the precise nature of the “road” located on the disputed portion of land. Absent such information, the Board will not order any change in assessment in that regard.
  - g) Based on the foregoing, the Petitioners failed to establish a prima facie case that the land portion of the current assessment is in error.
16. The Petitioners failed to establish a prima facie case of error in the overall valuation of the subject property. The Board reaches this conclusion because of the following:
- a) The Petitioners also presented a copy of an installment agreement showing that they purchased the subject property for \$58,000 in 1993. *Petitioner Ex. 4.*
  - 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 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on evidence of a subject property’s value as of a date substantially removed from January 1, 1999, must provide some explanation as to how that evidence 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 Petitioners failed to present any evidence to demonstrate how the 1993 purchase price relates to the subject property’s market value in use as of the relevant valuation date of January 1, 1999. Consequently, the 1993 purchase amount lacks probative value and the Petitioners failed to establish a prima facie case of error.

## **Conclusions**

### Condition

17. The Petitioners failed to make a prima facie that the condition rating assigned to the subject property is in error. The Board finds in favor of the Respondent.

### Land

18. The Petitioners failed to make a prima facie case that the land portion of the assessment is in error. The Board finds in favor of the Respondent.

### Overall Value

19. The Petitioners failed to make a prima facie case of error with regard to the overall assessment of the subject property. The Board finds in favor of the 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>.