

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition #:** 62-009-02-1-5-00204  
**Petitioner:** G&L Partnership, LP  
**Respondent:** Troy Township Assessor (Perry County)  
**Parcel #:** 009-02180-29  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter. It finds and concludes as follows:

**Procedural History**

1. The Petitioner initiated an assessment appeal with the Perry County Property Tax Assessment Board of Appeals (PTABOA) by written document on December 22, 2003.
2. The Petitioner received notice of the decision of the PTABOA on May 10, 2004.
3. The Petitioner filed an appeal to the Board by filing a Form 131 with the county assessor on May 24, 2004. Petitioner elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated October 14, 2004.
5. The Board held an administrative hearing on November 30, 2004, before the duly appointed Administrative Law Judge Rick Barter.
6. Persons present and sworn as witnesses at the hearing:
  - a) For Petitioner: Paul R. Schulte, Manager for G&L Partnership
  - b) Respondent: Mendy E Ward, Perry County Assessor<sup>1</sup>  
Connie Berger, Perry County Auditor

---

<sup>1</sup>In this case, the Perry County Assessor is not a party and no written authorization for her to represent the Respondent has been filed. Nevertheless, at the hearing the County Assessor stated that such authorization had been given. The Township Assessor did not attend the hearing, but there was no challenge to that authority or evidence to the contrary. Therefore, in this case the Board will accept that representation, but in the future assessors should document such authorization. See 52 I.A.C. 1-1-6(3); 52 I.A.C. 2-6-6.

## Facts

7. The property is 9.066 acres of land classified as unplatted, vacant residential land located in Tell City, as is shown on the Property Record Card for parcel #009-02180-29.
8. The Administrative Law Judge (ALJ) did not conduct an inspection of the property.
9. Assessed Value of subject property as determined by the PTABOA is land \$9,500.
10. Assessed Value requested by Petitioner is land \$1,400.

## Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
  - a) The subject property<sup>2</sup> is valued compared to the valuation of 22 other parcels of land owned by the Petitioner and located in the same area. The other 22 parcels have a 90 percent negative influence factor applied to the land while the subject property has only a negative 30 percent influence factor. *Schulte testimony; Pet. Ex. 1.*
  - b) The topography of the subject property is most likely similar to that of the other 22 parcels of land. The topography of those 22 parcels is hilly with ditches throughout. *Schulte testimony.*

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

Because the location of the subject property is unknown, the actual topography of the subject property is also unknown. Without knowing whether the subject property's topography is like the other 22 parcels of land owned by the Petitioner that receive a negative 90 percent influence factor, the 30 percent negative influence factor cannot be changed. *Ward 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 IBTR-6057.

---

<sup>2</sup> The Petitioner originally raised the question of whether the 9.066-acre parcel actually exists. At the hearing, however, for the sake of time and argument the Petitioner accepts that the parcel exists and seeks only to have the negative influence factor increased from 30 percent to 90 percent. Petitioner does not think it would be worthwhile to pay for a survey to specifically determine the existence and location of this acreage. *Schulte testimony.*

c) Exhibits:

Petitioner Exhibit 1: The property record card for the subject and the property record cards for 22 parcels owned by the Petitioner reflecting the application of negative influence factors.

Petitioner Exhibit 2: A copy of the Form 115 issued by the PTABOA.

Petitioner Exhibit 3: A copy of the underlying Form 130.

Respondent Exhibit 1: A copy of the warranty deed for

Respondent Exhibit 2: A copy of two pages of transfers and property “splits” associated with the original parcel as defined by the warranty deed. All are from the period 1969 to 1979.

Respondent Exhibit 3: A copy of two pages of transfers and property “splits” associated with the original parcel as defined by the warranty deed. All are from 1974.

Respondent Exhibit 4: A copy of six pages of additional transfers and property “splits” associated with the original parcel as defined by the warranty deed from various years.

d) These Findings and Conclusions.

### Analysis

14. 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).
15. 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”).
16. 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.
17. Petitioner did not provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:

The Petitioner claims that the subject property should receive a negative 90 percent influence factor like the other 22 parcels owned by the Petitioner. The Petitioner offered the property record card of those 22 parcels as evidence of the negative 90 percent influence factor and the comparability to the subject property. *Pet. Ex. 1.*

This evidence has little probative value because there is no evidence regarding comparability. See *Blackbird Farms Apts., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 715 (Ind. Tax Ct. 2002) (taxpayer must explain how properties are comparable); *Whitley Prods. Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind Tax Ct. 1998). In an attempt to show comparability, the Petitioner offered that the topography of the subject property is most likely similar to the other 22 parcels, but this offering is merely a conclusory statement and lacks any probative value. *Id.*

### Conclusion

18. The Petitioner did not bring forth probative evidence showing that the current assessment is incorrect and has failed to make a prima facie case. 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: \_\_\_\_\_

\_\_\_\_\_  
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.**