

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-028-02-1-5-00322  
**Petitioners:** George & Angeline Thiakos  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 008-08-15-0291-0001  
**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 between the Petitioners and the Respondent. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$136,200 and notified the Petitioners on March 13, 2004.
2. The Petitioners filed a Form 139L on April 14, 2004.
3. The Board issued a notice of hearing to the parties on August 14, 2004.
4. A hearing was held on September 21, 2004, in Crown Point, Indiana before Special Master Peter Salvesson.

### Facts

5. The subject property is located at 2435 W 57<sup>th</sup> Place, Merrillville, in Ross Township.
6. The subject property is a single-family home on .47 acres of land.
7. The Special Master did not conduct a site inspection of the property.
8. Assessed Value of subject property as determined by the DLGF:  
Land \$29,500            Improvements \$109,700            Total \$136,200.
9. Assessed Value requested by Petitioners during the hearing:  
Total \$100,000.
10. The following persons were present and sworn in at the hearing:  
For Petitioners: George & Angeline Thiakos, Owners  
For Respondent: David M. Depp, Staff Appraiser, Cole-Layer-Trumble

## **Issues**

11. Summary of Petitioners' contentions in support of an alleged error in the assessment:
  - a. The Petitioners' contention on the Form 139L for a lower value is based on comparable assessment in neighborhood. Houses that are larger assessed for less. *Petitioners Exhibits A, B.*
  - b. The Petitioners contend that the subject property does not have a fireplace or finished basement and has only 1 ½ baths. *Thiakos testimony; Petitioners Exhibit A.*
  
12. Summary of Respondent's contentions in support of assessment:
  - a. The Respondent stated that the information presented by the Petitioners is comparable assessments, not comparable sales. The property is fairly assessed based on comparable sales presented at the hearing and no change is warranted. *Depp testimony; Respondent Exhibit 4.*
  - b. The Respondent stated that the subject property is not being valued as having a fireplace or finished basement. *Depp testimony.*
  - c. The Respondent stated that the subject property is not being valued as having 3 bathrooms, but as having only 1 ½ baths. *Depp testimony.*

## **Record**

13. The official record for this matter is made up of the following:
  - a. The Petition and all subsequent pre-hearing submissions by either party.
  - b. The tape recording of the hearing labeled Lake Co. #134.
  - c. Exhibits:
    - Petitioners Exhibit A: Property record cards for comparable assessments
    - Petitioners Exhibit B: Assessment Comparison Worksheet
  
    - Respondent Exhibit 1: Form 139L
    - Respondent Exhibit 2: Subject property record card
    - Respondent Exhibit 3: Subject photograph
    - Respondent Exhibit 4: Comparable sales summary sheet
    - Respondent Exhibit 5: Property record cards and photographs of the comparables
    - Respondent Exhibit 6: Property record cards and photographs of two of the Petitioners' comparables

Board Exhibit A: Form 139 L  
Board Exhibit B: Notice of Hearing  
Board Exhibit C: Sign in Sheet

- d. These Findings and Conclusions.

### Analysis

14. The most applicable governing cases:
- a. A Petitioner seeking review of a determination of assessing official has the burden to establish a prima facie case proving by preponderance of the evidence, 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 at 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. 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 Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
- a. The Petitioners contend that the subject property is over-assessed compared to neighboring properties that are larger and have more amenities.
  - b. In making this argument, the Petitioners essentially rely on a methodology closely analogous to the sales comparison approach to establishing the market value in use of a property. *See* 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2)(stating that the sales comparison approach “estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market.”). *See also, Long v. Wayne Township Assessor*, Cause No. 49T10-0404-TA-20, at 4 (Ind. Tax Ct. corrected original opinion dated January 28, 2005). The primary difference between the Petitioners’ methodology and the sales comparison approach is that the Petitioners seek to establish the value of the subject property by analyzing the *assessments* of

- purportedly comparable properties rather than the *sale prices* of those properties. Nevertheless, the requirements for assigning probative value to evidence derived from a sales comparison approach are equally applicable to the assessment comparison approach used by the Petitioners in this case.
- c. In order to effectively use the sales comparison approach as evidence in a property assessment appeal, the proponent must establish the comparability of the properties being examined. Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of the two properties. *Long*, Slip op. at 7. 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 8. Similarly, the proponent must explain how any differences between their properties affect their relative market values-in-use. *Id.*
  - d. The Petitioners submitted property record cards for the purportedly comparable properties. Those properties differ from the subject in various ways. The subject property is a brick ranch; the other two ranches are primarily frame with one increment of brick. Two of the purportedly comparable properties have smaller lots than the subject property. All three comparable properties are older than the subject property, and therefore have a higher depreciation factor applied to them. *Petitioners Exhibit A*.
  - e. The Petitioners did not provide any explanation regarding how the differences between the subject property and the purportedly comparable properties affected their relative values. Consequently, the Petitioners’ evidence regarding the assessments of the neighboring properties lacks probative value regarding both whether the assessment of the subject property is correct and what a correct assessment would be. The Petitioners therefore failed to establish a prima facie case for a change in assessment based upon the assessments of neighboring properties. *See Meridian 805 N.E.2d* at 478 (holding that a petitioner has the burden of establishing that the current assessment is incorrect, and specifically what the correct assessment would be).
  - f. The Petitioners also testified that the property did not have three bathrooms, a finished basement or a fireplace. However, the Petitioners did not present any evidence that the subject property was assessed as having those features. Consequently, the Petitioners failed to establish a prima facie case for a change in assessment on those grounds. Even if the Petitioners’ assertion that the subject property was improperly assessed as having the features described above were sufficient to establish a prima facie case, the Respondent rebutted the Petitioners’ assertion. The Respondent presented the property record card for the subject property, which does not reflect that the subject property was assessed as having the features identified by the Petitioners. *Depp Testimony; Respondent Exhibit 2*.
  - g. Based on the foregoing, the Petitioners did not establish a prima facie case that the assessment is incorrect.

### **Conclusion**

16. The Petitioners did not establish a prima facie case. 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 total 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.**