

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-016-02-1-5-00351  
**Petitioners:** James R. & Norma J. Labadie  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 006-14-19-0017-0022  
**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 November 24, 2003 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$68,900 and notified the Petitioners on March 26, 2004.
2. The Petitioners filed a Form 139L on April 20, 2004.
3. The Board issued a notice of hearing to the parties dated October 18, 2004.
4. A hearing was held on November 18, 2004, in Crown Point, Indiana before Special Master Dalene McMillen.

### Facts

5. The subject property is a one-story 1,228 square foot ranch-style dwelling, with a 528 square foot detached garage, on a 50-foot by 124-foot lot located at 2659 Vermillion Street, Hobart, Hobart Township in Lake County.
6. The Special Master did not conduct an on-site visit of the property.
7. The assessed value of the subject property;

As determined by the DLGF:

Land: \$12,100	Improvements: \$56,800	Total: \$68,900
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As requested by the Petitioners:

Land: \$1,000                      Improvements: \$50,000                      Total: \$51,000

8. The following persons were present and sworn in at the hearing:

For the Petitioners: James R. Labadie, Owner

For the DLGF: Steven McKinney, Assessor/Auditor, DLGF

### **Issue**

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

- a. The assessed value of the subject property is overstated in comparison to properties located within the subject neighborhood. Neighboring properties are "run down" in comparison to the subject. The property should be assessed at \$1,000 for the land and \$50,000 on the improvements for an overall assessed value of \$51,000. *Petitioner Ex. 2, 3, & 4; Labadie testimony and argument.*
- b. The Petitioners paid \$500 for the land in 1960, and due to the subject area being slightly undesirable, the land would have a current market value of \$1,000. *Labadie testimony and argument.*

10. Summary of Respondent's contentions in support of assessment:

The subject property is correctly assessed at \$68,900. The assessed value is supported by comparable properties in the neighborhood. *Respondent Ex. 2 & 4; McKinney argument.*

### **Record**

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

- a. The Petition, and all subsequent submissions by either party.
- b. The tape recording of the hearing labeled Lake Co. #662.
- c. The following exhibits were presented:

Petitioner Exhibit 1 – An exterior photograph, Lake County property profile, Notice of Final Assessment, and the 2002 subject property record card

Petitioner Exhibit 2 – Two exterior photographs and Lake County property profile on Christopher Stowers.

Petitioner Exhibit 3 – Two exterior photographs and Lake County property profile on Gary Hampton.

Petitioner Exhibit 4 – Two exterior photographs and Lake County property profiles on Keith Durbin.

Respondent Exhibit 1 – A copy of the Form 139L petition.

Respondent Exhibit 2 – A copy of James Labadie's 2002 property record card.

Respondent Exhibit 3 – An exterior photograph of the subject dwelling.

Respondent Exhibit 4 – A top three comparable worksheet and three comparable property record cards with exterior photographs for Charles Switzer, James Landers, and Manuel Santana.

Board Exhibit A – Form 139L petition, dated April 20, 2004

Board Exhibit B – Notice of Hearing on Petition, dated October 18, 2004

Board Exhibit C – Hearing sign-in sheet.

d. These Findings and Conclusions.

### Analysis

12. The most applicable 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 Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Board of Tax Commissioners*, 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 Township 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 Insurance Company 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.

13. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:

a. The Petitioners contend that the assessed value of \$68,900 exceeds the market value of the property, and that the assessment should be changed.

- b. In support of their claim, the Petitioners point to three properties from their neighborhood, which they claim are comparable to the subject property, but which are assessed for amounts less than the subject property.
- c. In making this argument, the Petitioners essentially rely on a method akin to a sales comparison approach to establish the market value-in-use of the subject property. See 2002 REAL PROPERTY ASSESSMENT MANUAL 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*, 821 N.E.2d 466, 469 (Ind. Tax Ct. 2005). The primary difference between the Petitioners’ methodology and a 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.
- d. 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*, 821 N.E.2d at 470. 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. Similarly, the proponent must explain how any differences between the properties affect their relative market values-in-use. *Id.*
- e. Here, the Petitioners merely assert that the other properties from their neighborhood vary only slightly from the subject property. However, the Petitioners failed to present any evidence beyond that assertion to show how those properties were similar to the subject property other than being located in the same neighborhood. For example, with the exception of the house at 2663 Vermillion, the Petitioners did not provide information concerning the size, age, or other physical features of the purportedly comparable houses. *Labadie testimony*. Moreover, while James Labadie testified that all of the houses are in worse condition than the subject property, he did not explain how the differences in condition affected the relative values of the properties. *Labadie testimony*. As explained in *Long*, this falls short of the type of evidence necessary to prove market value through a sales comparison analysis. *Long*, 821 N.E.2d at 470.
- f. The Petitioners also contend that the subject land is not worth more than \$1,000 on the open market. However, the Petitioners did not substantiate this claim

through market evidence. Unsubstantiated conclusory statements concerning the value of property do not constitute probative evidence. *See Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

- g. Based on the foregoing, the Petitioners failed to establish a prima facie case for a change in assessment.

### **Conclusion**

- 14. The Petitioners failed to make a prima facie case regarding an error in the assessment. 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.**