

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition:** 45-001-02-1-5-00319  
**Petitioner:** Joyce Robinson  
**Respondent:** Department of Local Government Finance  
**Parcel:** 001-25-44-0022-0019  
**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 on February 13, 2004. The Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property is \$64,800 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 27, 2004.
3. The Board issued a notice of hearing to the parties dated October 7, 2004.
4. Special Master S. Sue Mayes held the hearing in Crown Point on November 10, 2004.

### Facts

5. The subject property is located at 856 Kentucky, Gary. The location is in Calumet Township.
6. The subject property is a single-family dwelling located on a 50 by 125 foot parcel.
7. The Special Master did not conduct an on-site visit of the property.
8. The assessed value of the subject property as determined by the DLGF:  
Land \$6,900                      Improvements \$57,900                      Total \$64,800.
9. The assessed value requested by Petitioner:  
Land \$5,500                      Improvements \$35,000                      Total \$40,500.

10. Persons sworn as witnesses at the hearing:  
Joyce Robinson, Petitioner,  
Terry Knee, Assessor/Auditor.

### **Issue**

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
- a. Petitioner provided the property record cards (PRCs) for two eight-room homes within a block of the subject property that are assessed for less than the subject property. *Petitioner Exhibits 5, 6, 7; Robinson testimony.*
  - b. Listings of properties within the same zip code as the subject on "Realtor.com" show an average asking price of between \$38,000 and \$39,000. These listings support the assessed value requested for the subject property. *Petitioner Exhibits 8-13; Robinson testimony.*
12. Summary of Respondent's contentions in support of the assessment:
- a. A direct comparison of the subject with the other properties would be necessary to draw any conclusions about value. *Knee testimony.*
  - b. There are differences such as square footage. *Id.*
  - c. Petitioner only provided list prices, but no evidence of actual sales. *Id.*
  - d. Location is the key to value. Petitioner did not establish where the Internet-listed properties are in relation to the subject property. *Id.*
  - e. Petitioner has not proven a case to change the value of the assessment. *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. 612,
  - c. Exhibits:
    - Petitioner Exhibit 1 - Form 11,
    - Petitioner Exhibit 2 - Notice of Final Assessment,
    - Petitioner Exhibit 3 - Form 139L,
    - Petitioner Exhibit 4 - Summary of Petitioner's arguments,
    - Petitioner Exhibit 5 - PRC for 776 Kentucky Street,
    - Petitioner Exhibit 6 - PRC for subject property, 856 Kentucky Street,

Petitioner Exhibit 7 - PRC for 643 Kentucky Street,  
Petitioner Exhibit 8 - Realtor.com listing for 437 Madison Street,  
Petitioner Exhibit 9 - Realtor.com listing for 712 Harrison Street,  
Petitioner Exhibit 10 - Realtor.com listing for 825 Buchanan Street,  
Petitioner Exhibit 11 - Internet listing and PRC for 452 Tyler Street,  
Petitioner Exhibit 12 - Internet listing and PRC for 636 Ohio Street,  
Petitioner Exhibit 13 - Internet listing and PRC for 442 Tyler Street,  
Respondent Exhibit 1 - Form 139L,  
Respondent Exhibit 2 - Subject PRC,  
Respondent Exhibit 3 - Photograph of the subject property,  
Board Exhibit A - Form 139L,  
Board Exhibit B - Notice of Hearing,  
Board Exhibit C - 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 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.
15. The Petitioner did not provide sufficient evidence to support her contentions. This conclusion was arrived at because:
- a. The Petitioner submitted the PRCs for two homes that are located within a block of the subject property. These two homes have eight rooms and the subject property also has eight rooms. Nevertheless, Petitioner did not demonstrate that these two homes are comparable to the subject. It is not the Board's responsibility to review all the evidence and determine whether those properties are comparable to the subject. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466,471 (Ind. Tax Ct. 2005). There was

no explanation of the characteristics of her property, how those characteristics compared to those of the purported comparable properties, and how any differences affected the relevant market value-in-use of the properties. *Id.* Petitioner failed to explain how the assessments of the neighbors' homes were relevant in demonstrating what her assessment should be. *Indianapolis Racquet Club*, 802 N.E.2d at 1022.

- b. The Petitioner also submitted eight listings of homes for sale in the same zip code as the subject. Petitioner contended that the list prices, averaging between \$38,000 and \$39,000, support her requested value for the subject home. *Petitioner Exhibits 8-13; Robinson testimony*. However, all the Petitioner's listings are considerably older than the subject, with the exception of one, and many are in poorer condition. The Petitioner failed to establish these properties are comparable. Mere allegations that properties are comparable do not constitute probative evidence. *See Long*, 821 N.E.2d at 466; *Blackbird Farms Apt., LP v. Dep't of Local Gov't Fin.*, 765 N.E.2d 711, 714-715 (Ind. Tax Ct. 2002); *Whitley Prods., Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
- c. Based on the foregoing, Petitioner failed to establish a prima facie case of error in the assessment.

### **Conclusion**

16. 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: \_\_\_\_\_

\_\_\_\_\_  
Commissioner,  
Indiana Board of Tax Review

- 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>.