

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-028-02-1-5-00188  
**Petitioner:** Marcia L. Tinsley  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 008081505250006  
**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 January 23, 2004 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$108,500 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated October 28, 2004.
4. A hearing was held on December 2, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is a single family ranch residence located at 2814 West 63<sup>rd</sup> Lane in Merrillville, Ross 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 \$29,000            Improvements \$79,500            Total \$108,500
8. Assessed value requested by the Petitioner on the Form 139L petition:  
Land \$13,766            Improvements \$80,634            Total \$94,400
9. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

10. Persons sworn in at hearing:

For Petitioner: Marcia A. Tinsley, Owner  
George A. Wilkes, Jr., Appraiser

For Respondent: Everett Davis, DLGF

**Issues**

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:

- a) The assessed value is significantly higher than the market value of the subject property. *Tinsley argument*. The Petitioner presented an appraisal to support this contention. *Pet'r Ex. 1*
- b) The appraiser presented and discussed his appraisal of the subject property dated December 1, 2004. *Wilkes Testimony; Pet'r Ex. 1*. The appraisal's purpose was to determine the market value of the subject property as of 1999 for tax assessment purposes. *Id.* The appraiser estimated the market value of the subject property to be \$94,400 as of 1999. *Id.*
- c) The indicated value of \$94,400 is based upon sales of comparable properties. *Id.*
- d) The Petitioner purchased the subject property in May 2001 for \$118,000. *Tinsley Testimony*.

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

- a) The Respondent presented the property record card and a photo of the subject property. *Resp't Exs. 2, 3*.
- b) The actual purchase price is the best indicator of value. *Davis argument*. Time adjusting the purchase price back to the 1999 valuation date would be a more accurate indicator of value than using purported comparable sales with numerous adjustments. *Davis testimony*.
- c) The current assessed value of \$108,000 is in line with the actual purchase price of \$118,000 in 2001. *Davis argument*.

**Record**

13. 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 County #885.

- c) Exhibits:
  - Petitioner Exhibit 1: Appraisal of Subject Property
  - Petitioner Exhibit 2: Article on Illiteracy in Northwest Indiana
  
  - Respondent Exhibit 1: Form 139L Petition
  - Respondent Exhibit 2: Subject Property Record Card
  - Respondent Exhibit 2: Subject Photograph
  
  - 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 laws 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. Wash. 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 provided sufficient evidence to support her contentions. This conclusion was arrived at because:
  - a) The Petitioner contends the assessed value is significantly higher than the market value of the subject property. To support her contention, the Petitioner presented an appraisal estimating the market value of the subject property to be \$94,400 as of 1999. *Tinsley testimony; Wilkes testimony; Pet'r Ex. 1.*
  - b) The 2002 Real Property Assessment Manual (“Manual”) defines the “true tax value” of real estate as “the market value-in-use of a property for its current use, as reflected

- by the utility received by the owner or a similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL 2 (incorporated by reference at 50 IAC 2.3-1-2). A taxpayer may use evidence consistent with the Manual’s definition of true tax value, such as appraisals that are relevant to a property’s market value-in-use, to establish the actual true tax value of a property. *See* MANUAL at 5. Thus, a taxpayer may establish a prima facie case for a change in assessment based upon an appraisal that quantifies the market value of a property through use of generally recognized appraisal principles. *See Meridian Hills*, 805 N.E.2d at 479 (holding that the taxpayer established a prima facie case that its improvements were entitled to a 74% obsolescence depreciation adjustment based on an appraisal quantifying the improvements’ obsolescence through the cost and income capitalization approaches).
- c) One such generally recognized method of appraisal is the sales comparison approach. That approach “estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market.” MANUAL at 2. *See also, Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 469 (Ind. Tax Ct. 2005). 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.*
- d) The Manual further provides that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. MANUAL at 4. This provision has significant consequences for appraisals or other evidence establishing a property’s market value as of a date substantially removed from January 1, 1999. In order for such evidence to be probative of a property’s true tax value, there must be some explanation as to how the evidence relates to the property’s market value as of January 1, 1999. *See Long*, 821 N.E.2d at 471 (holding that an appraisal indicating a property’s value for December 10, 2003, lacked probative value in an appeal from a 2002 assessment).
- e) As required by *Long*, the appraisal sets forth a detailed comparison of the features of the subject property and those of the comparable properties upon which the appraiser’s estimation of value is based. *Pet’r Ex. 1*. Those features include the age, square footage, view, design and construction quality, condition, number of rooms above and below grade, functional utility, and existence of porches and patios for each property. *Id.* Moreover, the appraisal sets forth adjustments to the sale prices of the comparable properties to account for various differences in features between those properties and the subject property. *Id.* While the appraisal does not make adjustments for certain differences between the subject property and the comparable properties, such as differences in the year of construction of the respective dwellings

and the size of the respective lots, the appraisal's overall analysis of the various properties is sufficient to meet the requirements described in *Long*.

- f) In addition, the appraisal estimates the market value of the subject property for a period that includes the relevant valuation date of January 1, 1999. In fact, the sales of comparable properties upon which the appraiser bases his estimate of value occurred between May and August of 1999. Consequently, the appraisal sufficiently relates its estimation of market value to the relevant valuation date of January 1, 1999, to constitute probative evidence of the subject property's true tax value.
- g) Based on the foregoing, the Petitioner established a prima facie case that the current assessment is incorrect, and that the correct assessment is the \$94,400.
- h) The burden therefore shifted to the Respondent to impeach or rebut the appraisal submitted by the Petitioner.
- i) The Respondent did not attempt to impeach the appraisal or the testimony of the appraiser. Instead, the Respondent relied solely upon the Petitioner's purchase of the subject property in May 2001 to rebut the value estimated by the appraisal.
- j) The Respondent contends that the purchase price is the best indicator of value. The Petitioner purchased the subject property in May 2001 for \$118,000. The Respondent acknowledged that the purchase price should be time adjusted back to the January 1, 1999 valuation date. However, the Respondent made no attempt to quantify the necessary adjustment.
- k) As set forth above, where a party submits evidence of a property's market value as of a date substantially removed from the relevant valuation date of January 1, 1999, the party must explain how that evidence relates to the property's value as of the relevant valuation date. *See Long*, 821 N.E.2d at 471. Thus, although the Respondent is correct that the purchase price of a subject property often may be the best evidence of its market value as of the date of the purchase, the Respondent has not demonstrated that the purchase amount in this case is probative of the subject property's true tax value.
- l) The Respondent therefore failed to rebut the appraisal submitted by the Petitioner, and the preponderance of the evidence supports a finding that the assessment should be changed to \$94,400.

### **Conclusion**

16. The Petitioner made a prima facie case for a reduction in the assessment to \$94,400. The Respondent did not rebut the Petitioner's claim.

## Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to \$94,400.

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.**