

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-00034  
**Petitioner:** Maria Sarvanidis  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 007282900860005  
**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 December 15, 2003 in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$131,300 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 13, 2004.
3. The Board issued a notice of hearing to the parties dated June 29, 2004.
4. A hearing was held on September 9, 2004, in Crown Point, Indiana before Special Master Kathy J. Clark.

### Facts

5. The subject property is located at: 1404 119<sup>th</sup> Street, Whiting, in North Township.
6. The subject property is a brick, one story commercial office/retail building located in downtown Whiting with other older, mixed-use buildings.
7. The Special Master did not conduct an on-site visit of the property.
  - a) Assessed Value of subject property as determined by the DLGF:  
Land \$49,600    Improvements \$81,700    Total \$131,300.
  - b) Assessed Value requested by Petitioner:  
Land \$20,000    Improvements \$38,000    Total \$58,000.

8. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.
9. Persons sworn in at hearing:

For Petitioner: Chris Sarvanidis, Son of the Petitioner

For Respondent: Sharon S. Elliott, Staff Appraiser, CLT

### **Issues**

10. Summary of Petitioner's contentions in support of an alleged error in the assessment:
  - a) The Petitioner has information on larger brick commercial buildings that have more stories and include multiple living units that are assessed for much less than the subject property. *Petitioner Exhibit 2; Sarvanidis testimony.*
  - b) On July 1, 1997, the Petitioner sold a vacant lot that was similar to the subject lot in to the city of Whiting for \$10,000. *Sarvanidis testimony; Petitioner Exhibit 4.* In light of that sale, the Petitioner does not believe that the land value of the subject lot should be so high. *Sarvanidis argument.*
  - c) The Petitioner also contends that properties identified in Petitioner Exhibit 2 contain lots, which are the same as the subject lot, but which are assessed for \$45,900 as compared to the subject lot's assessment of \$49,600. *Sarvanidis testimony.*
11. Summary of Respondent's contentions in support of the assessment:
  - a) The Respondent contends that the properties identified by the Petitioner are not comparable to the subject lot. *Elliott testimony.* Those properties are multi-story properties and do not have uses similar to that of the subject property. *Id.*
  - b) The lot sale presented as Petitioner Exhibit 4 was not an arms-length transaction due to the fact that it was not advertised except through word of mouth and no realtor was involved. *Elliott testimony.* The value of the sale is also questionable because the lot was sold to the City of Whiting. *Elliott argument; Sarvanidis testimony.*
  - c) The Petitioner refused to provide income and expense information at the informal hearing and again when requested at this hearing. *Elliott testimony.*

### **Record**

12. 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 BTR #412.

c) Exhibits:

Petitioner Exhibit 1: Form 139L Petition

Petitioner Exhibit 2: Comparable Property Information/Photographs

Petitioner Exhibit 3: Closing Documents for Vacant Lot

Petitioner Exhibit 4: Informal Appeal Form/Property Record Card

Petitioner Exhibit 5: Limited Power of Attorney for Chris Sarvanidis

Respondent Exhibit 1: Form 139L

Respondent Exhibit 2: Subject Property Record Card/Photograph

Respondent Exhibit 3: Comparable Property Record Cards/Photographs

Respondent Exhibit 4: Income Data

Board Exhibit A: Form 139 L

Board Exhibit B: Notice of Hearing

Board Exhibit C: Sign in Sheet

d) These Findings and Conclusions.

### **Analysis**

13. 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 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.

14. The Petitioner did not provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:

Total assessed value

- a) Real property in Indiana is assessed on the basis of its “true tax value.” *See* I.C. § 6-1.1-31-6(c). “True tax value” is defined as “[t]he 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).
- b) The market value-in-use of a property may be calculated utilizing several approaches, all of which have been used in the appraisal profession. *Id.* at 3; *Long v. Wayne Township Assessor*, Cause No. 49T10-0404-TA-20 at 4 (Ind. Tax Ct. corrected original opinion dated January 28, 2005). One such approach used in the appraisal profession is known as the “sales comparison approach.” *Id.* 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.” *Id.*
- c) However, in order to 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. *Id.* at 7. Instead, the party seeking to rely on a sales comparison approach must explain the characteristics of the subject property and how those characteristics compare to those of purportedly comparable properties as well as how any differences between the properties affect their relative market values-in-use. *Id.* at 8.
- d) Here, the Petitioner relies on an approach similar to the sales comparison approach. However, rather than analyzing *sales* of purportedly comparable properties, she points to *assessments* of those properties. The Petitioner is not clear whether she offers the comparisons to establish the fair market value-in-use of her property or simply that the assessments are not uniform and equal. In either case, it is necessary for the Petitioner engage in the type of comparison analysis described in *Long, supra*.
- e) The Petitioner submitted a printout and a photograph for each of four buildings that the Petitioner contends are comparable to the subject property. The printouts, identified as being from *mylakeproperty.com*, show the address, owner name, parcel number and assessed value of each property. The Petitioner submitted exterior photographs of buildings on those four properties, as well as photographs of other buildings she asserts are comparable to the subject property. *Sarvanidis testimony; Petitioner Exhibit 2.*
- f) Other than the printouts and photographs, the Petitioner provided no information regarding square footage, year of construction, or physical features of the purportedly comparable properties. All of these characteristics have a substantial effect fair on market value-in-use. These characteristics have a similar impact on the calculation of value under the cost approach utilized by THE REAL PROPERTY ASSESSMENT

GUIDELINES FOR 2002 – VERSION A. Thus, while the Petitioner did more than simply assert the properties at issue are comparable to the subject property, she failed to undertake the type of sales comparison approach contemplated by the MANUAL and *Long, supra*.

- g) The Petitioner therefore failed to make a prima facie case that the subject property was improperly assessed in comparison to similar properties.

#### Land valuation

- h) The Petitioner also contends that the land portion of the assessment of the subject property is overvalued. The Petitioner essentially relies upon two categories of evidence: (1) a July 1, 1997 sale of a vacant lot, which the Petitioner asserts is comparable to the subject lot, and (2) the assessments of the four lots described on the printouts from mylakeproperty.com.
- i) As an initial matter, the Petitioner did not discuss the characteristics of the vacant lot or compare them to the characteristics of the subject lot. Instead, the Petitioner simply asserted that the two lots were similar. *Sarvanidis testimony*. However, such a statement is precisely the type of conclusory statement identified by the court in *Long* as lacking any probative value. *Long*, Slip op. at 7 (holding that conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of the two properties).
- j) The Petitioner’s reliance on the sale of the vacant lot is misplaced for another reason. Indiana’s assessment regulations provide that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. MANUAL at 4; *Long*, Slip op. at 8. If a petitioner seeks to rely on evidence of a property’s value as of a date substantially removed from January 1, 1999, the petitioner must explain how that evidence relates to the property’s fair market value-in-use as of January 1, 1999. *See Long*, Slip op. at 8-9 (holding that an appraisal prepared in 2003 lacked probative value regarding the property’s value as of January 1, 1999). Here, the sale in question occurred on July 1, 1997. However, the Petitioner did not provide any explanation regarding how the sale price related to the fair market value-in-use of that property, or of the subject property, on January 1, 1999.
- k) The Petitioner also pointed to the land assessments for the four lots identified in the printouts from mylakeproperty.com. Each of those lots was assessed for \$45,900, while the subject lot was assessed for \$49,600. *Petitioner Exhibit 2*. The Petitioner alternately asserted that those four lots were either approximately the same width as, or “the same” as the subject lot. *Sarvanidis testimony*. Once again, the Petitioner did not engage in a comparison of the characteristics of the purportedly comparable lots and the subject lot, but relied instead only upon conclusory statements to the effect that the lots were “the same” as or similar to the subject lot. This is insufficient to establish comparability. *See Long*, Slip op. at 8.

- 1) The Petitioner therefore failed to establish a prima facie case that the subject land was improperly assessed.

### **Conclusion**

15. The Petitioner 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: \_\_\_\_\_

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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.**