

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-00050  
**Petitioner:** Robert Allen Sifford  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 007-26-34-0198-0006  
**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 3, 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 \$72,900 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 7, 2004.
3. The Board issued a notice of hearing to the parties dated June 29, 2004.
4. A hearing was held on September 8, 2004, in Crown Point, Indiana before Special Master Kathy J. Clark.

### Facts

5. The subject property is located at: 7113 Monroe Avenue, Hammond, in North Township.
6. The subject property is a frame, one story bungalow style dwelling located on a 40 by 124 foot lot.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed Value of subject property as determined by the DLGF:  
Land \$17,800 Improvements \$55,100 Total \$72,900.
9. Assessed Value requested by Petitioner:  
Land \$17,800 Improvements \$23,853 Total \$41,653.

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

For Petitioner: Robert Allen Sifford, Owner

For Respondent: Sharon S. Elliott, Staff Appraiser, Cole Layer Trumble.

### Issues

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

- a) The subject property record card has four errors: the house has vinyl siding rather than aluminum siding; it has a linoleum floor rather than tile flooring; there are two bedrooms rather than three; the total room count is five rather than six. *Sifford testimony; Petitioner's Exhibits 3, 10.*
- b) The neighboring dwelling, located at 7115 Monroe, while having similar construction, has been fully updated with new vinyl clad replacement windows, central air conditioning, new bathroom plumbing fixtures, and new wiring. This property is assessed at \$67,100. *Sifford testimony; Petitioner's Exhibits 1, 4.*
- c) The cost to update all wiring and plumbing fixtures, install central air conditioning, and replace all windows with vinyl clad windows would be approximately \$19,747. *Sifford testimony; Petitioner's Exhibit 5.*
- d) The property located at 7115 Monroe has a six-foot fence, a garage door opener, a shower in the bathroom, and aluminum siding instead of vinyl siding like the subject. An estimated value of adding these improvements to the subject is approximately \$5,700. *Sifford testimony; Petitioner's Exhibit 4.*
- e) Petitioner believes that deducting the estimated expenditures of \$19,747 and \$5,700 from his assessment would result in a correct assessment of \$41,653 (\$25,447 less than the neighboring property). *Sifford testimony; Petitioner's Exhibit 9.*

12. Summary of Respondent's contentions:

- a) The Respondent agrees to correct the following items on the property record card: number of bedrooms, total number of rooms, type of flooring, and type of siding. She explained to the Petitioner that these changes would not result in a change of value. *Elliott testimony.*
- b) The Respondent reviewed other items on the subject property record with the Petitioner and confirmed that the dwelling has permanent stairs to the attic thereby making the attic assessable, unlike the neighboring property. Also, the subject has an enclosed masonry porch, while the neighboring property has a frame porch. *Respondent Exhibit; Elliott testimony.*

- c) The comparable sales analysis sheet and supporting property record cards show that the subject is within an acceptable market range established by three properties similar in age, grade, condition, square footage, and lot size that are located within the subject's neighborhood. *Respondent Exhibits 4, 5.*
- d) The supporting property record cards show that none of the three comparable properties are being assessed for attic space. *Respondent Exhibit 5.*
- e) Two of the comparable properties do not have detached garages while the subject property does. *Id.*
- f) Only one of the comparables is reported to have central air conditioning. *Id.*

### **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 BTR #384.
- c) Exhibits:

- Petitioner Exhibit 1: Subject Photos #1-21
- Petitioner Exhibit 2: Form 139L
- Petitioner Exhibit 3: Subject Property Record Card with errors
- Petitioner Exhibit 4: Comparison of Subject and 7115 Monroe
- Petitioner Exhibit 5: Estimate to rewire Subject
- Petitioner Exhibit 6: Estimate to remodel Subject bathroom
- Petitioner Exhibit 7: Estimate to install air conditioning
- Petitioner Exhibit 8: Estimate to replace windows
- Petitioner Exhibit 9: Summary of Petitioner's Arguments
- Petitioner Exhibit 10: Written evidence outline

- Respondent Exhibit 1: Form 139L
- Respondent Exhibit 2: Subject Property Record Card
- Respondent Exhibit 3: Subject Photograph
- Respondent Exhibit 4: Comparable Sales Analysis
- Respondent Exhibit 5: Comparable Property Record Cards and Photographs

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

- d) These Findings and Conclusions.

## Analysis

15. The most applicable governing cases and regulations 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.
16. The Petitioner did not present sufficient evidence to support his contentions. This conclusion was arrived at because:
- a) The Petitioner presented photographs, a list of alleged errors on the property record card, a list of the dwelling’s problems, and an estimated cost to repair those problems. The Petitioner contends that his home is comparable to his neighbor’s, and should be assessed the same, less the estimated cost of repairs. *Sifford testimony*.
  - b) In order to show comparability of two properties, a party must present probative evidence indicating the properties are in fact comparable. A taxpayer’s statements that another property “is similar” or “is comparable” are nothing more than conclusions. Conclusory statements do not constitute probative evidence. *Whitley Prods., Inc., v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998). Rather, specific reasons must be provided as to why a taxpayer believes a property is comparable. *Lacy Diversified Indus., Ltd. v. Dep’t of Local Gov’t Fin.*, 799 N.E.2d 1215, 1221 (Ind. Tax Ct. 2003).
  - c) Petitioner failed to present evidence showing the two properties are truly comparable. Petitioner’s own evidence indicates that there are numerous differences between the subject property and the neighbor’s property including major renovations. *See attachments to Board Ex. A*. Petitioner did not explain the effect those differences have on the market value of the property, other than stating that the subject should be assessed lower than the neighbor.

- d) The Petitioner was responsible for explaining to the Board the characteristics of their own property, how those characteristics compared to those of the purportedly comparable properties, and how any differences affected the relevant market value-in-use of the properties. The record is devoid of such explanation, and therefore the Petitioner's evidence carries no probative value. *See Long v. Wayne Twp. Assessor*, 821 N.E.2d 466 (Ind. Tax Ct. 2005).
- e) The Petitioner did not provide the property record card for the neighbor's property, hindering any comparison of the two assessments.
- f) Petitioner did provide numerous photographs showing the exterior of the properties. Petitioner also provided a comparison of the interior, indicating number of rooms, and numerous other similar features. *See Board Exhibit A, attachment*. The comparison sheet notes numerous differences between the properties.
- g) The Petitioner also argued the cost of the repairs and renovations that would have to be made to make his home identical to the neighbors should be subtracted that from the Assessed Value to give a correct assessment. *Sifford testimony*. Petitioner did not present any probative evidence showing the affect the upgrades would have on the market value of the property. The Petitioner must show how the upgrades would affect the market value of the property. The Board cannot accept the conclusory statement that \$25,447 in repairs will result in exactly a \$25,447 increase in the market value-in-use of the property.
- h) The Petitioner also argued that the subject property was assessed as having aluminum siding, tile flooring, and three bedrooms. Petitioner testified at the hearing that the property has vinyl siding, linoleum flooring, and two bedrooms.<sup>1</sup>
- i) The Respondent agreed at the hearing to correct these errors but stated they would have no affect on the market value-in-use of the property. Petitioner did not present any evidence indicating how these differences affect the market value of the property.
- j) The Petitioner did not present sufficient evidence to establish a prima facie case. Accordingly, the burden never shifted to the Respondent to rebut the Petitioner's evidence. The Board finds for the Respondent. There should be no change in the assessment as a result of this Petition.

### **Conclusion**

17. The Petitioner did not present sufficient evidence to establish a prima facie case. The Board finds in favor of the Respondent.

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<sup>1</sup> The Petitioner also contended the subject property had a total of five rooms. However, at the hearing, all parties agreed the subject property did have a total of six rooms.

## **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.**