

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-041-02-1-5-00141  
**Petitioners:** Robert & Betty Hardy  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 003-31-25-0096-0008  
**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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioners and the Respondent. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$67,900 and notified the Petitioner on March 12, 2004.
2. The Petitioners filed a Form 139L on April 12, 2004.
3. The Board issued a notice of hearing to the parties on July 29, 2004.
4. A hearing was held on September 15, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is a single-family home on .134 acres of land located at 7305 W. 141st Place, Cedar Lake, in Center Township.
6. The Special Master did not conduct an on-site visit of the property.
7. Assessed Value of the subject property as determined by the DLGF:  
Land \$15,600 Improvements \$52,300 Total \$67,900
8. Assessed Value requested by the Petitioners during hearing:  
\$70,000 in total with the three adjacent vacant land parcels

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

For Petitioners: Robert Hardy, Co-Owner

For Respondent: David Depp, Staff Appraiser, Cole-Layer-Trumble

### Issues

10. Summary of Petitioners' contentions in support of alleged error in assessment:
- a. Petitioners' claim a lower value is warranted based on several issues including the house does not have air conditioning, is not on the lake front, has two layers of shingles that need to be removed, and it has only one bathroom. *Form 139L Petition at 2.*
  - b. Petitioners also contends the house across the street sold for \$ 77,000 and is a much newer home with a basement and garage. *Hardy testimony.*
11. Summary of Respondent's contentions in support of assessment:  
The Respondent contends, by using comparable sales for homes of similar utility, the property is fairly valued and no change in assessment is warranted based on the sale prices of the comparable properties. *Depp testimony; Respondent's Exhibit 4.*

### Record

12. The official record for this matter is made up of the following:
- a. The Petition and all subsequent pre-hearing submissions by either party.
  - b. The tape recording of the hearing labeled Lake Co. #370.
  - c. Exhibits:
    - Petitioners' Exhibits: Photographs of subject property
    - Respondent's Exhibit 1: Form 139L Petition
    - Respondent's Exhibit 2: Subject property record card (PRC)
    - Respondent's Exhibit 3: Subject property photograph
    - Respondent's Exhibit 4: Comparable property summary and property record cards for each of the three
    - Respondent's Exhibit 4: Aerial parcel map
  - d. These Findings and Conclusions.

### Analysis

13. 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.
14. The Petitioners did not provide sufficient evidence to support their contentions for a reduction in assessed value. This conclusion was arrived at because:
- a. The Petitioner contends the home is inferior in that it has no air conditioning, is of poor quality due to age and has only one bathroom. *Hardy testimony*. Petitioner did not relate these factors to any objectively verifiable data allowing the Board to quantify the effect these conditions have on market value. “[M]ere allegations, unsupported by factual evidence, will not be considered sufficient to establish an alleged error.” *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).
  - b. The Respondent presented the property record card that shows the home is valued at a lower than average grade, has one bathroom and no air conditioning, and is listed as fair condition. *Respondent’s Exhibit 2*. Petitioner has not shown that the grade and condition assigned to the property are incorrect.
  - c. The Petitioner testified the home is inferior to the newer property across the street that sold for \$77,000 and is thus over-valued but did not present a sales disclosure or record card to show the variances between the two properties. *Hardy testimony*. Without an explanation of how the properties compare, this evidence is not probative to the Board’s determination of the proper market value-in-use for this property. *See Long v. Wayne Twp. Assessor*, No. 49T10-0404-TA-20, slip op. at 6-8 (Ind. Tax Ct. January 28, 2005); *Blackbird Farms Apts., LP v. Dep’t of Local Gov’t Fin.*, 765 N.E.2d 711 (Ind. Tax Ct. 2002).
  - d. Respondent also presented record cards and photographs of three actual sales of homes with similar ages and size in addition to a summary list of twenty area sales. The summary page illustrated the subject property as being in line with similar properties. *Respondent’s Exhibit 4*.

**Conclusion**

- 15. The Petitioner did not make a prima facie case for a reduction in the assessed value of the property. 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.**