

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-041-02-1-5-00143  
**Petitioners:** Robert & Betty Hardy  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 003-31-25-0096-0002  
**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 \$51,300 and notified the Petitioners 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 a 40' x 125' lot located at 7225 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 \$12,900 Improvements \$38,400 Total \$51,300.
8. Assessed Value requested by the Petitioners during hearing:  
Lower land value based on non-buildable size of land.

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

### Issue

10. Summary of Petitioners' contention in support of alleged error in assessment:  
The Petitioners' contention on the Form 139L was the subject parcel should be valued as an unbuildable sized lot; however, the structure is fairly assessed. *Hardy testimony.*
11. Summary of Respondent's contention in support of assessment:  
The Respondent contends the land is buildable, and was built on, and no change in assessment is warranted based on comparable properties. *Depp testimony.*

### 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: None submitted
    - 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: 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 any evidence to support their contention for a reduction in assessed value. This conclusion was arrived at because:
- a. The Petitioners contend the lot is unbuildable using modern standards and therefore should be valued lower. *Hardy testimony*.
  - b. The Respondent testified the land had been built on and includes a single family home and therefore the land was valued in use. *Depp testimony*.
  - c. The Petitioners testified the structure’s assessed value was fair and reasonable. *Hardy testimony*.
  - d. As support of the total assessed value, the Respondent presented three actual sales of homes with similar ages and size and each had a 1999 or 2000 sale price of between \$65,000 up to \$69,500. *Respondent’s Exhibit 4*.
  - e. Furthermore, the sales supplied show that the base rate of the land is the same for all and that two of the properties are the same or smaller in actual and effective frontage and both of those are smaller in total area than the subject. *Depp testimony*; *Respondent’s Exhibit 4*.

### **Conclusion**

15. The Petitioners 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: \_\_\_\_\_

---

Commissioner,  
Indiana Board of Tax Review

Robert & Betty Hardy  
45-041-02-1-5-00143  
Findings & Conclusions  
Page 3 of 4

## 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.**