

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-028-02-1-5-00201  
**Petitioners:** Ronald T. & Cathie S. Knestrict  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 008-08-15-0384-0016  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter. It finds and concludes as follows:

### Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held. The Department of Local Government Finance (the "DLGF") determined that the property tax assessment for the subject property is \$148,800 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 26, 2004.
3. The parties waived their right to a notice of hearing.
4. Special Master Michael Schultz held the hearing in Crown Point on September 22, 2004.

### Facts

5. The subject property is located at 5590 Marshall Place, Merrillville. The location is in Ross Township, Lake County.
6. The subject property is a ranch style, single family residential dwelling.
7. The Special Master did not conduct an on-site inspection of the property.
8. The assessed value of subject property as determined by the DLGF:  
Land \$31,800                      Improvements \$117,000                      Total \$148,800.
9. The assessed value requested by Petitioners:  
Land \$29,000                      Improvements \$114,000                      Total \$143,000.

10. The following persons were sworn as witnesses at the hearing:  
For Petitioners — Ronald Knestrict, property owner,  
For Respondent — Sharon Elliott, staff appraiser, Cole-Layer-Trumble.

### **Issue**

11. Summary of Petitioners' contentions in support of alleged error in assessment:
- a) The Petitioners own two adjoining parcels. One of these parcels is a vacant lot (lot 15). *Knestrict testimony.*<sup>1</sup>
  - b) The second parcel (lot 16), the subject of this appeal, contains the Petitioners' dwelling. The vacant lot contains the septic field for the house. The Petitioners introduced testimony that the two lots cannot be sold separately. *Knestrict testimony; Petitioners Exhibit 1.*
  - c) The two parcels were sold on August 22, 2000, for \$137,000. The Petitioners bought the two parcels in June 2002 for \$156,900. The sales price increased because improvements had been made to the home between August 2000 and June 2002. *Knestrict testimony; Petitioners Exhibit 3.*
  - d) The Petitioners introduced an appraisal indicating the value of both parcels as of April 29, 2002, was \$160,000. *Knestrict testimony; Petitioners Exhibit 11.*
  - e) The Petitioners also presented evidence of the values of other properties that they contend are comparable. The property at 5499 Marshall Place sold for \$154,000 in December 2002 (2002 assessed value is \$143,100). The property at 5500 Marshall Place sold on November 25, 1998 for \$133,500 and again on October 30, 2002, for \$156,900 (2002 assessed value is \$137,000). The property at 5522 Marshall Place sold for \$138,500 in March 1998 (2002 assessed value is \$134,100). These properties are comparable to Petitioners' property in size, location and general features. *Knestrict testimony; Petitioners Exhibits 4, 5, 6.*
  - f) The five acres located behind the subject property are assessed for \$33,000. *Knestrict testimony; Petitioners Exhibit 7.*
12. Summary of Respondent's contentions in support of assessment:
- a) Respondent contended the appraisal land values are on the low side. *Elliott testimony.*
  - b) The Respondent identified three purported comparable properties in support of the assessment. *Respondent Exhibit 4.*

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<sup>1</sup> The vacant lot, parcel 008-08-15-0384-0015, has a total assessed value of \$18,400 and is the subject of a separate appeal, petition #45-028-02-1-4-00200.

- c) Comparable property one has less square footage than the Petitioners' home, is frame instead of brick, and has a partial crawl space. *Elliott testimony.*
- d) Comparable property two has less square footage on the first floor. *Id.*
- e) Comparable property three has less square footage on the first floor and is partial brick rather than a full brick home. *Id.*

### **Record**

13. The official record for this matter is made up of the following:

- a) The Petition,
- b) The tape recording of the hearing labeled Lake Co. 298,
- c) Exhibits:
  - Petitioners Exhibit 1: Surveyor Location report (shows encroachments and septic field),
  - Petitioners Exhibit 2: Reports from Lake County web site,
  - Petitioners Exhibit 3: Multiple listing pages and reassessment papers,
  - Petitioners Exhibit 4: Market data on comparable property (5500 Marshall Pl.),
  - Petitioners Exhibit 5: Market data on comparable property (5522 Marshall Pl),
  - Petitioners Exhibit 6: Market data on comparable property (5499 Marshall Pl),
  - Petitioners Exhibit 7: Market data on comparable property (2700 W. 57<sup>th</sup> Ave),
  - Petitioners Exhibit 8: Market data on comparable property (2800 W. 57<sup>th</sup> Ave),
  - Petitioners Exhibit 9: Market data on comparable property (3000 W. 57<sup>th</sup> Ave),
  - Petitioners Exhibit 10: Form 139L,
  - Petitioners Exhibit 11: Appraisal of subject property,
  - Petitioners Exhibit 12: Current assessed value of comp used in appraisal,
  - Petitioners Exhibit 13: Current assessed value of property (from web site),
  - Petitioners Exhibit 14: Petitioners' supporting statement,
  - Respondent Exhibit 1: Form 139L Petition,
  - Respondent Exhibit 2: Petitioners' property record card ("PRC"),
  - Respondent Exhibit 3: Photograph of subject parcel and photograph of the adjoining parcel,
  - Respondent Exhibit 4: Three comparable PRCs with photographs,<sup>2</sup>
  - Board Exhibit A: Form 139L,
  - Board Exhibit B: Waiver of Notice of Hearing,
  - Board Exhibit C: Sign-in sheet,
- d) These Findings and Conclusions.

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<sup>2</sup> The Respondent's Exhibit Coversheet identifies two additional exhibits: a plat map (identified as Respondent Exhibit 5) and neighbor's property record card (identified as Respondent Exhibit 6). These exhibits were not presented at the hearing.

## Analysis

14. The most applicable governing cases:
- 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.
15. The Petitioners provided insufficient evidence to make a prima facie case. This conclusion was arrived at because:
- a) The Petitioners made four arguments in support of their contention that the assessment is too high. (1) Their appraisal demonstrates error. (2) Sales data of comparable properties demonstrates error. (3) Assessment data of a comparable property demonstrates error. (4) The actual sales of the property under appeal demonstrate error.

### The Appraisal

- b) Indiana’s assessment regulations provide that for the 2002 general reassessment, a property’s assessment must reflect its value as of January 1, 1999. *Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005); 2002 REAL PROPERTY ASSESSMENT MANUAL at 4 (incorporated by reference at 50 IAC 2.3-1-2). Consequently, a party relying on an appraisal to establish the market value of a property must provide some explanation as to how the appraisal demonstrates, or is relevant to, the property’s value as of January 1, 1999. *See Long*, at 471.
- c) Petitioners presented an appraisal valuing the property at \$160,000 as of April 29, 2002. Neither the appraisal, nor anything else in the evidence introduced in this case specifically related that opinion of value back to the valuation date, January 1, 1999. The appraisal does not make a prima facie case for any change regarding this assessment. *Id.*

### Comparable Sales

- d) The Petitioners presented evidence of several home sales from their subdivision. These sales occurred during the period 1997 through 2004. Because of the requirement to relate such information to value as of January 1, 1999, the sales from March and November 1998 are the most relevant from the standpoint of time. *Id.*
- e) To have probative value in establishing market value of the subject property, the party relying on comparables 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 the relative market values. Specific reasons must be provided about why a property is comparable. Conclusory statements that a property is “similar” or “comparable” to another property do not constitute probative evidence of the comparability of the two properties. *See Long*, 821 N.E.2d at 470.
- f) In this case, Petitioners provided evidence that established some bases for comparison, but the evidence also established significant differences between the subject and each of the comparables. Petitioners failed to explain or analyze the effect of those differences on the relative values of the properties. Therefore, the comparable sales do not establish a prima facie case for what the market value of Petitioners' property is.

### Comparable Assessments

- g) The Petitioners also contended that other properties in their subdivision are assessed for less than the Petitioners' property. Again, however, the Petitioners failed to sufficiently explain the manner in which these properties are similar to their property or analyze the apparent differences. Accordingly, this evidence of differing assessed values is not probative of error. *Id.*

### Actual Sales of the Subject Property

- h) The Petitioners presented evidence that their two parcels sold for \$137,000 in August 2000, and again in June 2002 for a total of \$156,900. Neither sale is useful in determining the proper assessed value for 2002.
- i) The problem with giving any weight to the August 2000 sale is that there were improvements to the property that took place somewhere between the 2000 sale and the 2002 sale. Petitioners attributed the difference between these two prices to those improvements. They did not provide evidence, however, about what those improvements were, when they were made, or how much they cost. That failure is fatal to any weight the 2000 sale might have carried as evidence.

- j) For the 2002 reassessment, property must be assessed as it physically existed on the assessment date, March 1, 2002. Ind. Code § 6-1.1-2-1. Therefore, it would be necessary to assess whatever improvements had been added up to that date. Without proof about what changes and additions were made prior to the assessment date, the 2000 sale of the subject property has no probative value, even though it is much closer to the valuation date.
- k) The valuation date, January 1, 1999, does not require or even allow property to be assessed as it physically existed on anything other than the assessment date. MANUAL at 12. Whatever property existed on the assessment date must be valued with the concept of what that property would have been worth in terms of 1999 dollars. Thus, even though the June 2002 sale would have included whatever improvements were added by March 1, 2002, that sale price does not establish a prima facie case because Petitioners did not relate it back to the valuation date. *Long*, 821 N.E.2d at 470. The evidence regarding the 2002 sale does not help Petitioners to make a prima facie case.
16. Where the Petitioners have not supported the claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. v. Dep't of Local Gov't Fin.*, 799 N.E.2d 1215, 1222 (Ind. Tax Ct. 2003).

### **Conclusion**

17. The Petitioners did not make a prima facie case. 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.**