

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-016-02-1-5-00034  
**Petitioners:** Stephen & Madelyn Camacho  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 006271802030009  
**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 February 04, 2004, at Crown Point, IN. The Department of Local Government Finance (the "DLGF") determined that the Petitioners' property tax assessment for the subject properties were a total of \$171,400 and notified the Petitioners on March 26, 2004.
2. The Petitioners filed Form 139Ls on April 13, 2004.
3. The Board issued a notice of hearing to the parties dated June 24, 2004.
4. A hearing was held on August 31, 2004, in Crown Point, Indiana before Special Master Joan L. Rennick.<sup>1</sup>

### Facts

5. The subject property is located at 13 N. Illinois St., Hobart, Indiana.
6. The subject property is one of four related parcels comprising the Petitioners' residence..
7. The Special Master did not conduct an on-site visit of the property.

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<sup>1</sup> The Board normally tape records hearings regarding property tax appeals. In this case, the Special Master inadvertently failed to record a significant portion of the hearing. The Special Master subsequently prepared a document entitled "Preliminary Statement – REVISED" ("Statement"). The Special Master's Statement contains a recitation of the testimony presented at the hearing. The Board provided the parties with a copy of the Statement and asked them to respond in writing if the Statement did not reflect their understanding and recollection of what transpired at the hearing. The parties did not indicate that the statement prepared by the Special Master was inaccurate.

a) Assessed Value of subject property as determined by the DLGF:

Land \$ 8,300, Improvements \$ -0-.

b) Assessed Value requested by Petitioners:

Land \$ 5,000, Improvements \$ -0-.

8. The persons indicated on the attached sign-in sheet (Attachment A) were present at the hearing.

9. Persons sworn in at hearing:

For Petitioners: Stephen Camacho, Property Owner.

For Respondent: Cathi Gould, Staff Appraiser.

### **Issues**

10. Summary of Petitioners' contentions in support of alleged error in assessment:

a) The subject lot is one of four (4) lots upon which the improvements are located. *Comacho testimony.*

b) The subject lot cannot be sold separately from the other lots because a portion of the dwelling is situated on this lot. *Camacho testimony.*

11. Summary of Respondent's contentions in support of assessment:

a) The subject lot is currently valued at market value with the application of a negative 45% influence factors reflecting -25% for flood and -20% for an unimproved lot. *Gould testimony.*

b) Valuing the subject lot at market value with the application of a negative 45% influence factor, the correct value of the subject lot is \$8,300. The value of this lot should not be changed. *Gould testimony.*

### **Record**

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

a) The tape recording of the hearing labeled BTR #742.

b) Exhibits:

Respondent Exhibit 1: 139L for each parcel, Notice of Final Assessment.

Respondent Exhibit 2: Present property record card (PRC) for each parcel and proposed changes for the PRC.

Respondent Exhibit 3: Map of each lot.

Respondent Exhibit 4: Proposed PRC for each parcel.

Respondent Exhibit 5: PRC's and photographs of comparable properties.

c) The Statement prepared by the Special Master.

d) These Findings and Conclusions.

### Analysis

13. The most applicable laws and regulations are:

a) A Petitioners 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 Petitioners establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioners' 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 Petitioners' evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.

14. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:

a) The Petitioners merely stated that the subject lot could not be sold separately from the other lots because a portion of the Petitioners' dwelling is located on the subject lot. *Comacho testimony*.

b) While the Petitioners' contention in that regard may be true, the Petitioners have presented no evidence attempting to quantify how the inability to sell the lot separately affects its market value-in-use.

c) Consequently, the Petitioners have failed to establish a prima facie case. *See Meridian Towers* 805 N.E.2d at 478 (A petitioner establish a prima facie case

proving that the current assessment is incorrect, and specifically what the correct assessment would be).

### **Conclusion**

15. The Petitioners failed to establish a prima facie case. The evidence does not support a change in assessment.

### **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: \_\_\_\_\_ [date] \_\_\_\_\_

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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.**