

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-5-00068A  
**Petitioners:** Foster & Barbara Dunfee  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001152603150001  
**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 5, 2004, in Lake County, Indiana. The Department of Local Government Finance (the "DLGF") determined that the Petitioners' property tax assessment for the subject property was \$146,900 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 8, 2004.
3. The Board issued a notice of hearing to the parties dated July 29, 2004.
4. A hearing was held on September 15, 2004, in Crown Point, Indiana before Special Master Kathy J. Clark.

### Facts

5. The subject property is located at: 441 S. Broad, Griffith, in Calumet Township.
6. The subject property is a brick, one story, brick and frame, ranch style dwelling located on a 65 by 133 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 \$34,000 Improvements \$112,900.
9. Assessed Value requested by Petitioners:  
Land \$17,800 Improvements \$112,900.

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

For Petitioner: Foster Dunfee, Owner

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

#### **Issue**

11. Petitioners contend the subject's land is assessed thousands of dollars higher than neighboring lots of the same or similar size. *Petitioners Exhibits 3-8; Dunfee testimony.*

12. Summary of Respondent's contentions in support of the assessment:

- a) The subject's lot is "platted" and therefore priced using a front foot method. *Respondent Exhibit 2; Elliott testimony.*
- b) The comparables offered by the Petitioner are all priced on an acreage basis and are therefore not comparable. *Respondent Exhibit 4; Elliott testimony.*
- c) Two sales within the subject's neighborhood demonstrate that the subject's value falls within an acceptable market range. *Respondent Exhibit 5.*

#### **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 #447.
- c) Exhibits:
  - Petitioner Exhibit 1: Final Assessment Notice
  - Petitioner Exhibit 2: 139L Petition
  - Petitioner Exhibit 3: Summary of Comparable Assessments
  - Petitioner Exhibit 4: Subject property record card
  - Petitioner Exhibit 5: Comparable Property Record Card ("PRC")
  - Petitioner Exhibit 6: Comparable Property Record Card
  - Petitioner Exhibit 7: Comparable Assessment Sheet
  - Petitioner Exhibit 8: Comparable Assessment Sheet
  
  - Respondent Exhibit 1: Form 139L
  - Respondent Exhibit 2: Subject property record card
  - Respondent Exhibit 3: Subject photograph
  - Respondent Exhibit 4: Comparable property record cards and photographs
  - Respondent Exhibit 5: Petitioners' comparables' property record cards
  - Respondent Exhibit 6: Maps

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 laws 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. Petitioners provided sufficient evidence to support their contention. This conclusion was arrived at because:
- a) The Petitioners submitted their own property record card showing that the subject is located in neighborhood number 03911, is a platted lot measuring 65 feet by 133 feet located at 441 S. Broad. *Petitioner Exhibit 4*.
  - b) The Petitioner presented record cards for two properties located in the same neighborhood and on the same street. The Hanenburg property is located at 445 S. Broad Street and the Anderson property is located at 435 S. Broad Street. *Petitioner Exhibits 5, 6*.
  - c) While the Petitioner submitted only an assessment sheet summary for the Umlauf property located at 432 S. Broad Street, and the Merchant property located at 427 S. Broad Street, the Respondent submitted property record cards for both of these parcels. *Petitioner Exhibits 6, 8. Respondent Exhibit 5, at 3-4*.

- d) The following is a summary of land information from these property record cards arranged by acreage size:
- 1) Umlauf            50 x 122 lot (0.140 acre) valued at \$25,100 using front foot method
  - 2) Subject            65 x 133 lot (0.198 acre) valued at \$34,000 using front foot method
  - 3) Anderson        0.199 acre homesite valued at \$17,800 using acreage method
  - 4) Hanenburg       0.214 acre homesite valued at \$18,500 using acreage method
  - 5) Merchant        0.300 acre homesite valued at \$22,200 using acreage method.
- e) As stated in the assessment guidelines, “[i]t should be stressed that the pricing method for valuing the neighborhood is of less importance than arriving at the correct value of the land as of the valuation date.” REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, ch. 2 at 16 (incorporated by reference at 50 IAC 2.3-1-2).
- f) Properties number 2 and 3, above, are nearly identical in size but because two different pricing methods were used. The subject (#2) is valued 52% higher than the Anderson property (#3).
- g) Both the Umlauf and subject property were assessed using a base rate of \$550 per front foot. The Anderson, Hanenburg, and Merchant properties were all assessed using a \$40,000 per acre price.
- h) The subject property, and the others presented by the Petitioner were all located on South Broad Street with addresses near the subject property. The Petitioner referred to them as his neighbors. *Dunfee testimony*. The Anderson property is 0.001 acres larger than the subject property, yet it is assessed at nearly half the amount of the subject property.
- i) The proximity of these properties, the comparable size of the two properties, and the lack of rebuttal by the Respondent lead the Board to conclude they are comparable, and should have similar assessed values. The sole reason given by the Respondent to explain the difference in value was that the two lots valued on the basis of front foot were platted lots and the lots valued on the acreage basis were not.
- j) According to the PRCs submitted identifying the properties, all had access to all utilities, all were within the same neighborhood, and all were on paved streets. *Petitioner’s Exhibits 5, 6; Respondent’s Exhibit 5*. The Respondent did not point out any reason why the market value would vary so greatly between these properties.
- k) The Respondent submitted two property record cards in an attempt to demonstrate that the subject falls within acceptable market value range. Both properties submitted are within the subject’s neighborhood, but not in as close proximity as the properties submitted by the Petitioner. *Respondent Exhibit 4*.
- 1) Menchaca        1 acre homesite valued at \$40,000 using acreage method.  
Sold April 25, 2001, for \$150,000. Assessed Value: \$142,500 or 95% of sale.

- 2) Kern 50 x 125 lot (.1435 acre) valued at \$25,300 using front foot method.  
Sold November 19, 2001, for \$88,600. Assessed Value: \$98,000 or 110% of sale.
- h) The Respondent did not demonstrate that the subject is within acceptable market range. Two sales within one neighborhood can hardly be put forth as representative of a market range. All that can be said of the two sales presented by the Respondent is that the lot assessed using the front foot method is assessed above the price it sold for in November of 2001. Had that property been assessed using the acreage method of pricing, it would have had an assessed value of \$86,800 or 98% of sale.
- i) The Respondent failed to show how the Menchaca and Kern properties were comparable to the subject. The first property submitted by the Respondent contained a total of 3.5 acres of land. The second property, while located in the same assessing neighborhood, was located on South Rensselaer Street. No information was provided to indicate the proximity to the subject.

### **Conclusion**

17. The Petitioner presented a prima facie case. The Respondent did not rebut the Petitioner's evidence. The Board finds in favor of the Petitioner. The subject property should have an assessed value of \$17,800 for the land. There is no change to the assessed value of the improvements.

### **Final Determination**

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the total assessment should 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.**