

**INDIANA BOARD OF TAX REVIEW**  
**Small Claims**  
**Final Determination**  
**Findings and Conclusions**

**Petition #:** 42-002-02-1-5-00002  
**Petitioners:** Gary Mutchmore and Matthew G. Mutchmore  
**Respondent:** Vincennes Township Assessor (Knox County)  
**Parcel #:** 022-012-OT01-023-022  
**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 Petitioners initiated an assessment appeal with the Knox County Property Tax Assessment Board of Appeals (PTABOA) by written document dated December 29, 2003.
2. The PTABOA issued notice of its decision on April 19, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on April 29, 2004. Petitioners elected to have this case heard in small claims.
4. The Board issued a notice of hearing to the parties dated July 15, 2004.
5. The Board held an administrative hearing on August 19, 2004, before the duly appointed Administrative Law Judge Rick Barter.
6. Persons present and sworn in at hearing:  
For Petitioner: Gary Mutchmore, Owner.  
Nicholas Miller, Taxpayer.

For Respondent: Rose Goodwin, Vincennes Township Assessor.

**Facts**

7. The property is classified as residential, as is shown on the property record card for parcel #022-012-OT01-023-022.
8. The Administrative Law Judge did not conduct an inspection of the property.

9. Assessed Value of subject property as determined by the Knox County PTABOA:  
Land \$6,300 Improvements \$31,300 Total \$37,600

10. Assessed Value requested by Petitioners:  
Land \$6,300 Improvements \$13,700 Total \$20,000

### **Issues**

11. Summary of Petitioners' contentions in support of alleged error in assessment:
- a. The assessed value of subject is over-stated. Because of the condition of the subject, it did not sell after being on the market for nearly a year with a list price of \$19,900. After it was withdrawn from the market, Mr. Nicholas Miller offered to purchase it on contract for \$20,000, which was what the Petitioners paid for it eight years earlier. The Petitioners sold the property to Mr. Miller on contract on June 17, 1999. *Mutchmore testimony; Petitioners Exhibits 1, 2 and 6.*
  - b. Mr. Miller is currently trying to sell the property for \$17,500. *Mutchmore testimony; Miller testimony.*
12. Summary of Respondent's contentions in support of the assessment:  
The PTABOA recommended the removal of a plumbing fixture, a change in grade to D, and a change in condition to fair. *Goodwin testimony; Petitioners Exhibit 4.*

### **Record**

13. The official record for this matter is made up of the following:
- a. The Petition, and all subsequent pre-hearing and post-hearing submissions by either party.
  - b. The tape recording of the hearing labeled BTR #5840.
  - c. Exhibits:
    - Petitioners Exhibit 1: Real estate multiple listing service (MLS) withdrawal sheet from second quarter of 1999, including the subject property.
    - Petitioners Exhibit 2: Undated MLS listing book sheet showing subject property.
    - Petitioners Exhibit 3: Form 130 petition.
    - Petitioners Exhibit 4: Form 115 notice following Form 130 appeal hearing.
    - Petitioners Exhibit 5: Form 131 petition.
    - Petitioners Exhibit 6: Land contract for sale of subject property dated June 17, 1999.
    - Petitioners Exhibit 7: Amortization schedule for sale of subject dated August 1, 1999.
    - Petitioners Exhibit 8: Property record card printed December 11, 2003.

Petitioners Exhibit 9: Real property maintenance report of subject property for 2002 pay 2003, printed July 30, 2004.

Respondent Exhibits: None presented

- d. These Findings and Conclusions.

### Analysis

14. The most applicable governing law is:

- a. The Board will not change the determination of the County Property Tax Assessment Board of Appeals (PTABOA) unless the Petitioner has established a prima facie case and, by a preponderance of the evidence, proven both the alleged errors in the assessment and specifically what assessment is correct. See *Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Bd. of Tax Comm'rs*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).
- b. The Petitioner must sufficiently explain the connection between the evidence and Petitioner's assertions in order for it to be considered material to the facts. See generally, *Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).
- 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 East & West v. Washington Twp. Assessor*, 805 N.E.2d 475 (Ind. Tax Ct. 2003).

15. The Petitioners did provide sufficient evidence to support the Petitioners' contentions. This conclusion was arrived at because:

- a. Petitioners offered evidence that the subject property was listed for sale by a real estate broker for a period of 333 days, ending in the first quarter of 1999 and with a final listing price of \$19,900. *Petitioners Exhibits 1 and 2*.
- b. Petitioners also presented evidence of a contract sale of the subject property to Mr. Miller, executed and recorded in June 1999, reflecting a sale price of \$20,000. *Mutchmore testimony; Miller testimony; Petitioners Exhibit 6*.
- c. Petitioners testified that the sale was an arm's-length transaction after an extended period of exposure in the marketplace with no showings or offers. *Mutchmore testimony; Miller testimony; Board Exhibit A*.
- d. Mr. Miller's testimony, that he is attempting to sell the property now for \$17,900, tends to further support the proposed value sought by the Petitioners.

- e. The Petitioners have therefore made a prima facie case of error in the assessment. Once the Petitioners make a prima facie case, the burden shifts to the Respondent to rebut the evidence.
- f. No evidence or testimony to rebut the Petitioners' probative evidence was offered.

### **Conclusion**

16. The Petitioners made a prima facie case. The Respondent failed to rebut the Petitioners' evidence. The Board finds in favor of the Petitioners. It is determined that total assessed value of the subject property should be \$20,000.

### **Final Determination**

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

ISSUED: \_\_\_\_\_

\_\_\_\_\_  
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.**