

REPRESENTATIVE FOR PETITIONER: Gregory V. Large, property owner

REPRESENTATIVE FOR RESPONDENT: Linda Kovacich, Jennings County Assessor

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**BEFORE THE  
INDIANA BOARD OF TAX REVIEW**

In the matter of:

	)	Petition for Review of Assessment, Form 131
	)	
GREGORY V. LARGE,	)	Petition No.: 40-013-02-1-5-00009
	)	
Petitioner	)	County: Jennings
	)	
v.	)	Township: Center
	)	
	)	Parcel No. 09280004200012
	)	
CENTER TOWNSHIPASSESSOR,	)	Assessment Year: 2002
	)	
	)	
Respondents	)	
	)	

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Appeal from the Final Determination of  
the Jennings County Property Tax Assessment Board of Appeals

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**January 5, 2004**

**FINAL DETERMINATION**

The Indiana Board of Tax Review (Board) having reviewed the facts and evidence, and having considered the issues, now finds and concludes the following:

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

### Issue

1. The issue presented for consideration by the Board was:  
*ISSUE – Whether the subject property has been valued too high.*

### Procedural History

2. Pursuant to Ind. Code § 6-1.1-15-3 Gregory V. Large (Petitioner) filed a Form 131 petitioning the Board to conduct an administrative review of the above petition. The Form 131 was filed on July 25, 2003. The Notification of Final Assessment Determination of the Jennings County Property Tax Assessment Board of Appeals (PTABOA) was mailed on July 3, 2003.

### Hearing Facts and Other Matters of Record

3. Pursuant to Ind. Code § 6-1.1-15-4 a hearing was held on September 30, 2003 in Vernon, Indiana before Jennifer Bippus, the duly designated Administrative Law Judge (ALJ) authorized by the Board under Ind. Code § 6-1.5-5-2.
4. The following persons were present at the hearing:  
For the Petitioner:  
Mr. Gregory V. Large, property owner  
  
For the Respondent:  
Ms. Linda Kovacich, Jennings County Assessor
5. The following persons were sworn in as witnesses and presented testimony:  
For the Petitioner:  
Mr. Gregory V. Large

For the Respondent:

Ms. Linda Kovacich

6. Prior to the hearing, both parties waived the discovery provisions found in Ind. Code § 6-1.1-15-4. In addition, both parties agreed to proceed with the hearing as scheduled.
7. The following exhibits were presented:

For the Petitioner:

Petitioner's Exhibit 1 – A letter from Mr. Large explaining the reason he filed the petition

Petitioner's Exhibit 2 – A copy of an order issued by Jennings County Circuit Court on March 13, 1997 to Gregg and Betty Large

Petitioner's Exhibit 3 – A copy of the definition for "Aggression" printed from *World Book*

Petitioner's Exhibit 4 – A copy of "Types of Crime" printed from *World Book*

Petitioner's Exhibit 5 – A copy of the definition for "Attainder" printed from *World Book*

Petitioner's Exhibit 6 – A copy of the definition for "Civil Rights" printed from *World Book*

Petitioner's Exhibit 7 – Three (3) photocopies of photographs from the subject property

Petitioner's Exhibit 8 – Videotape of the subject property

Petitioner's Exhibit 9 – A copy of the definition of "Crime" and several pages of examples of crime printed from *World Book*

Petitioner's Exhibit 10 – A copy of several scriptures

For the Respondent:

Respondent's Exhibit 1 – A copy of a vacant sale (no improvements) for property adjacent to the subject property

Respondent's Exhibit 2 – A copy of the plat map with the subject property highlighted

Respondent's Exhibit 3 – A photograph of the subject property

Respondent's Exhibit 4 – A copy of the subject's property record card (PRC)

8. On October 6, 2003, the ALJ sent a letter, with signature confirmation requested, to Mr. Large explaining that when the videotape was reviewed there was no visible evidence on the tape. The ALJ requested photographs of the subject property from Mr. Large establishing October 15, 2003 as the deadline to provide the photographs (Board's Exhibit 3). On October 16, 2003, the ALJ sent a second letter to Mr. Large again requesting photographs, with October 24, 2003 as the new deadline to submit them (Board's Exhibit 4). Upon tracking the signature confirmation request for the first letter, it was discovered that Mr. Large had accepted it on October 23, 2003. Mr. Large did not submit any additional evidence as requested by either the first or second due date. Mr. Large also did not contact the ALJ prior to either of the deadline dates to request an extension of time to submit the additional evidence.

9. The following additional items are officially recognized as part of the record of proceedings:

Board's Exhibit 1 - Copy of the Form 131 petition

Board's Exhibit 2 - Copy of the Notice of Hearing on Petition

Board's Exhibit 3 - Copy of the Letter of Request for Additional Evidence sent to Mr. Large, dated October 6, 2003

Board's Exhibit 4 - Copy of the second Letter of Request for Additional Evidence sent to Mr. Large, dated October 16, 2003

Board's Exhibit 5 - Copy of a letter of authorization from James Mick, Center Township Assessor, Jennings County, granting Linda Kovacich, permission to represent Center Township in these proceedings

10. The assessed values for the subject property as of the March 1, 2002 assessment date are as follows:

Land	\$ 25,000
Improvements	<u>66,000</u>
Total	\$ 91,000

11. The subject property is a residence located at 2315 N. State Hwy. 7, North Vernon, Center Township, Jennings County.
12. The ALJ did not conduct an on-site inspection of the subject property.

### **Jurisdictional Framework**

13. This matter is governed by the provisions of Ind. Code § 6-1.1-15, and all other laws relevant and applicable to appeals initiated under those provisions, including all case law pertaining to property tax assessment or matters of administrative law and process.
14. The Board is authorized to issue this final determination pursuant to Indiana Code §6-1.1-15-3.

### **Indiana's Property Tax System**

15. The Indiana Constitution requires Indiana to create a uniform, equal, and just system of assessment. See Ind. Const. Article 10, §1.
16. Indiana has established a mass assessment system through statutes and regulations designed to assess property according to what is termed "True Tax Value." See Ind. Code § 6-1.1-31, and 50 Ind. Admin. Code 2.2.
17. True Tax Value does not precisely equate to fair market value. See Ind. Code § 6-1.1-31-6(c).

18. An appeal cannot succeed based solely on the fact that the assessed value does not equal the property's market value. See *Town of St. John V*, 702 N.E. 2d.
19. The Indiana Supreme Court has said that the Indiana Constitution “does not create a personal, substantive right of uniformity and equality and does not require absolute and precise exactitude as to the uniformity and equality of each individual assessment”, nor does it “mandate the consideration of whatever evidence of property wealth any given taxpayer deems relevant”, but that the proper inquiry in tax appeals is “whether the system prescribed by statute and regulations was properly applied to individual assessments.” See *Town of St. John V*, 702 N.E. 2d at 1039 - 40.

### **State Review and Petitioner's Burden**

20. The State does not undertake to reassess property, or to make the case for the petitioner. The State decision is based upon the evidence presented and issues raised during the hearing. See *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E. 2d 1113 (Ind. Tax 1998).
21. The petitioner must submit ‘probative evidence’ that adequately demonstrates all alleged errors in the assessment. Mere allegations, unsupported by factual evidence, will not be considered sufficient to establish an alleged error. See *Whitley Products, Inc. v. State Bd. of Tax Comm'rs*, 704 N.E. 2d 1113 (Ind. Tax 1998), and *Herb v. State Bd. of Tax Comm'rs*, 656 N.E. 2d 1230 (Ind. Tax 1998). [‘Probative evidence’ is evidence that serves to prove or disprove a fact.]
22. The petitioner has a burden to present more than just ‘de minimis’ evidence in its effort to prove its position. See *Hoogenboom-Nofzinger v. State Bd. of Tax Comm'rs*, 715 N.E. 2d 1018 (Ind. Tax 1999). [‘De minimis’ means only a minimal amount.]
23. 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. ‘Conclusory statements’ are of no value to the State in its evaluation of the evidence. See *Heart City*

*Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E. 2d 329 (Ind. Tax 1999). [‘Conclusory statements’ are statements, allegations, or assertions that are unsupported by any detailed factual evidence.]

24. Essentially, the petitioner must do two things: (1) prove that the assessment is incorrect; and (2) prove that the specific assessment he seeks, is correct. In addition to demonstrating that the assessment is invalid, the petitioner also bears the burden of presenting sufficient probative evidence to show what assessment is correct. See *State Bd. of Tax Comm'rs v. Indianapolis Racquet Club, Inc.*, 743 N.E.2d 247, 253 (Ind., 2001), and *Blackbird Farms Apartments, LP v. DLGF* 765 N.E.2d 711 (Ind. Tax, 2002).
25. The State will not change the determination of the County Property Tax Assessment Board of Appeals unless the petitioner has established a ‘prima facie case’ and, by a ‘preponderance of the evidence’ proven, both the alleged error(s) 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 1998), and *North Park Cinemas, Inc. v. State Bd. of Tax Comm'rs*, 689 N.E. 2d 765 (Ind. Tax 1997). [A ‘prima facie case’ is established when the petitioner has presented enough probative and material (i.e. relevant) evidence for the State (as the fact-finder) to conclude that the petitioner’s position is correct. The petitioner has proven his position by a ‘preponderance of the evidence’ when the petitioner’s evidence is sufficiently persuasive to convince the State that it outweighs all evidence, and matters officially noticed in the proceeding, that is contrary to the petitioner’s position.]

### **Discussion of Issue**

#### ISSUE 1: *Whether the subject property has been valued correctly.*

26. Prior to the hearing, the Petitioner requested that the ALJ read into the record Petitioner’s Exhibit 1. The ALJ did as the Petitioner requested and read Petitioner’s Exhibit 1 into the record of the proceedings.

27. Petitioner's Exhibit 1 consisted of statements by the Petitioner regarding crime and purported acts of aggression against the Petitioner. In addition, the Petitioner submitted videotape (Petitioner's Exhibit 8) purported to be that of the subject property. However, upon viewing the videotape, the tape appeared to be blank.
28. The Petitioner contends that the subject property was assessed too high.
29. The Respondent contends that the property is assessed in line with other properties in the area, that the Petitioner did not show any proof to the contrary, and that no change in the assessment is warranted.
30. The applicable rules governing this Issue are:

**2002 Real Property Assessment Guideline – Book 1, Version A - Chapter 1 – Mission of Reassessment**

The mission of a reassessment is to inventory, verify, and value all real estate parcels. This process distributes the property tax burden in a uniform and equitable manner. The reassessment of real property includes the following:

- Land
- Buildings and fixtures situated on the land
- Appurtenances to land
- An estate in land or an estate, right, or privilege in mines located on the land or minerals located in the land if the estate, right, or privilege is distinct from the ownership of the surface of the land.

Residential, commercial and industrial land, and agricultural homesites are valued based on values established by the township assessor and reviewed by the Property Tax Assessment Board of Appeals (PTABOA). The primary method for valuing buildings and other improvements is the cost of replacing the improvement minus depreciation, but the comparable sales approach and capitalized income approach may be used by the assessor if shown to be applicable.

**2002 Real Property Assessment Guideline – Book 1, Version A - Chapter 3 – Residential Dwelling Units**

This chapter describes the process of valuing residential dwelling units as well as step-by-step instructions for completing the relevant sections of the Residential Property Record Card and for determining the true tax value for a dwelling unit.

**2002 Real Property Assessment Guideline – Book 1, Version A – Appendix C – Residential and Agricultural Cost Schedules**



31. Evidence and testimony considered particularly relevant to this determination include the following:
  - a. There was a vacant sale of 2.98 acres next to the subject property that sold for \$75,000. *Kovacich testimony.*
  - b. The place is getting very old and there are termites. *Large testimony.*
  - c. A videotape of photographs was submitted for the ALJ to review. *Large testimony.*

### **Analysis of Issue**

32. At the hearing, the ALJ gave the Petitioner several opportunities to explain in detail why he felt that his assessment was too high or why he felt the assessment was incorrect. Much of the Petitioner's responses dealt with what he perceived as personal attacks on himself, as well as his property, by the local assessing officials, none of which were germane to the issue under review. The Petitioner's responses to the assessment questions failed to shed any light on the issue as to whether the subject property was correctly valued.
33. The Petitioner presented into evidence definitions of the following words: "crime", "aggression", "civil rights", and "attainder" (See Petitioner's Exhibits 3, 4, 5, and 6). The Petitioner contends that all of these acts have been committed in the assessment of his property.
34. The Petitioner also submitted a videotape of the subject property (Petitioner's Exhibit 8) but due to the quality of the film, it did not show anything. The Petitioner admitted at the hearing, that he had problems with his video recorder. He stated he tried to use a digital camera to put photographs on the videotape but was not sure how well the tape turned out. As previously stated, the videotape did not show anything. For a lack better terms, the tape was completely "snowy" or "grainy".
35. On two (2) occasions, the ALJ requested additional evidence from the Petitioner consisting of photographs of the subject property (See Board's Exhibits 3 & 4 and ¶8). In

each case, the Petitioner was given sufficient amounts of time to submit the requested photographs. The Petitioner did not comply with either request nor did the Petitioner ask for an extension of time from the ALJ to respond.

36. The Petitioner has a burden to present ‘probative evidence’ that adequately demonstrates all alleged errors in the assessment. Mere allegations, unsupported by factual evidence, will not be considered sufficient to establish an alleged error. See *Whitley Products, Inc. v. State Board of Tax Commissioners*, 704 N.E. 2d 1113 (Ind. Tax 1998), and *Herb v. State Board of Tax Commissioners*, 656 N.E. 2d 1230 (Ind. Tax 1998). [‘Probative evidence’ is evidence that serves to prove or disprove a fact.]
37. In the case at bar, the Petitioner contends that his assessment is too high, but was not able to provide the specific reasons why, nor did he provide any evidence that would support his contention. Essentially, the Petitioner must do two things: (1) prove that the assessment is incorrect; and (2) prove that the specific assessment he seeks, is correct. In addition to demonstrating that the assessment is invalid, the Petitioner also bears the burden of presenting sufficient probative evidence to show what assessment is correct. See *State Bd. of Tax Comm’rs v. Indianapolis Racquet Club, Inc.*, 743 N.E. 2d 247, 253 (Ind. Tax, 2001), and *Blackbird Farms Apartments, LP v. DLGF*, 765 N.E. 2d 711 (Ind. Tax, 2002).
38. The State will not change the determination of the County Property Tax Assessment Board of Appeals unless the petitioner has established a ‘prima facie case’ and, by a ‘preponderance of the evidence’ prove, both the alleged error in the assessment, and specifically what assessment is correct. See *Clark v. State Bd. of Tax Comm’rs*, 689 N.E. 2d 765 (Ind. Tax 1997).
39. The Petitioner did not, by a preponderance of the evidence, meet its burden to prove that the current assessment is incorrect. Accordingly, there is no change in the assessment as a result of this issue.

## Summary of Final Determination

40. The Petitioner did not prevail by a preponderance of the evidence. There is no change to the assessment.

This Final Determination of the above captioned matter is issued this by the Indiana Board of Tax Review on the date first written above.

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Chairman, 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.**