

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-00690  
**Petitioner:** Ignacio Salazar  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 007-24-30-0134-0012  
**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 in Lake County, Indiana, in December 2003. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$133,200 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 27, 2004
3. The Board issued a notice of hearing to the parties dated October 14, 2004.
4. A hearing was held on November 17, 2004 in Crown Point, Indiana before Special Master Peter Salvesson.

### Facts

5. The subject property is located at: 4743 East 26<sup>th</sup> Place, Lake Station, Hobart Township
6. The subject property is a duplex located on 0.080 acres of land.
7. The Special Master did not conduct an on-site visit of the property
  - a) Assessed Value of subject property as determined by the DLGF:  
Land \$ 7,300                      Improvements \$125,900
  - b) Assessed Value requested by Petitioner on Petition:  
Land \$ 5,000                      Improvements \$ 85,000

At hearing, the Petitioner requested a total assessment of \$79,000.

8. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

9. Persons sworn in at hearing:

For Petitioner: Ignacio Salazar, Owner

For Respondent: Diane Spenos, DLGF Hearing Officer

### Issues

10. Summary of Petitioner's contentions in support of an alleged error in the assessment:

- a) The subject property is 100 years old. *Salazar testimony*. The interior and exterior of the home suffers from cracking. *Id; Pet'r Ex. 1.*
- b) An appraisal report, prepared by William Siegel, licensed appraiser, that stated the value of the home was \$79,000 as of October 16, 2003. *Salazar testimony; Pet'r Ex. 3.*

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

- a) Because the subject property is a duplex, the Respondent's comparable sales are not applicable. *Spenos testimony.*

### Record

12. 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 Lake Co - 811.
- c) Exhibits:

Petitioner Exhibit 1:	Pictures of Subject Property and Surrounding Area
Petitioner Exhibit 2:	Residential Loan Application
Petitioner Exhibit 3:	Uniform Residential Appraisal Report

Respondent Exhibit 1:	Form 139L Petition
Respondent Exhibit 2:	Subject Property Record Card
Respondent Exhibit 3:	Subject Property Photograph
Respondent Exhibit 4:	Comparable Sales Sheet
Respondent Exhibit 5:	Comparable Property Record Cards & Photographs

Board Exhibit A:	Form 139L Petition
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Board Exhibit B: Notice of Hearing  
Board Exhibit C: Sign-In Sheet

d) These Findings and Conclusions.

### Analysis

13. 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 at 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.
14. The Petitioner did not provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
- a) The Petitioner contends that the assessment is too high.
  - b) The 2002 Real Property Assessment Manual (“Manual”) defines the “true tax value” of real estate as “the market value-in-use of a property for its current use, as reflected by the utility received by the owner or a similar user, from the property.” 2002 REAL PROPERTY ASSESSMENT MANUAL at 2 (incorporated by reference at 50 IAC 2.3-1-2). The Manual further provides that for the 2002 general reassessment, a property’s assessment must reflect its market value-in-use as of January 1, 1999. MANUAL at 4.
  - c) In support of his contention, the Petitioner submitted an appraisal, dated October 16, 2003, which places the value of the property at \$79,000. *Pet’r Ex. 3*. Again, however, the valuation date for the 2002 reassessment is January 1, 1999. MANUAL at 4. Consequently, a party relying on an appraisal to establish the market value-in-use of a property must provide some explanation as to how the appraised value demonstrates or is relevant to the property’s value as of January 1, 1999. *See Long v. Wayne Township Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005) (holding that an

appraisal indicating the value for a property on December 10, 2003, lacked probative value in an appeal from the 2002 assessment of that property).

- d) The Petitioner presented no explanation of how the appraised value of \$79,000 relates to the value as of the subject property as of January 1, 1999. The appraisal therefore lacks probative value.
- e) Because the Petitioner's evidence was not probative, the burden never shifted to the Respondent to defend the assessment. Therefore, there is no change in the assessment.

### **Conclusions**

- 15. The Petitioner failed to 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. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code § 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at [http://www.in.gov/judiciary/rules/trial\\_proc/index.html](http://www.in.gov/judiciary/rules/trial_proc/index.html). The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.