

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-028-02-1-5-00347A  
**Petitioner:** Stephen Joseph Galovic III  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 008-08-15-0028-0005  
**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 Department of Local Government Finance (the DLGF) determined that the Petitioner's property tax assessment for the subject property was \$2,700 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 23, 2004
3. The Board issued a notice of hearing to the parties dated February 14, 2005.
4. Special Master Peter Salveson held a hearing on March 17, 2005, in Crown Point, Indiana.

### Facts

5. The subject property is located at 7100 Catherine Street, Merrillville. The location is in Ross Township.
6. The subject property is a vacant residential lot consisting of 0.044 acres of land.
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 \$ 2,700.
9. No specific value was requested by Petitioner.
10. Persons sworn in as witnesses at the hearing:

Stephen Joseph Galovic III, Owner,  
Everett Davis, Assessor Auditor, DLGF.

### Issues

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
  - a. The Petitioner contends that the assessment is incorrect because it does not take into account the fact that the subject property is a rear lot to the adjacent parcel owned by the Petitioner. It is an extension of the backyard of 7100 Catherine Street, but because 7100 Catherine is a corner lot, the subject parcel faces the side street. *Galovic testimony.*
  - b. The Petitioner testified that he purchased both parcels together. The Petitioner contends that the subject property is near worthless and the additional area does not add significantly to the value of 7100 Catherine, which itself is 230 feet deep. *Id.*
  - c. The Petitioner contends that the subject property is an unbuildable residential lot because the lot is too narrow, 23 feet, and because there is a 10 foot utility easement on the west side of the subject property. *Id.*
  
12. Summary of Respondent's contentions in support of the assessment:
  - a. The Respondent contends that the subject property is assessed according to the assessment manual and guidelines. The subject property is assessed as a buildable vacant residential front lot. *Davis testimony.*
  - b. The Respondent recommended that the subject property be valued as part of the adjacent parcel owned by the Petitioner. *Id.*

### Record

13. The official record for this matter is made up of the following:
  - a. The Petition,
  - b. The tape recording of the hearing labeled Lake County-1312,
  - c. Exhibits:
    - Respondent Exhibit 1: Form 139L Petition.
    - Respondent Exhibit 2: Subject property record card,
    - Respondent Exhibit 3: Subject property photo,
    - Respondent Exhibit 4: Map,
    - Respondent Exhibit 5: Final Determination for adjacent parcel,
    - Board Exhibit A: Form 139L Petition,
    - Board Exhibit B: Notice of Hearing,
    - Board Exhibit C: Sign-In Sheet,
  - d. These Findings and Conclusions.

### Analysis

14. The most applicable governing cases 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.
15. The Petitioner did not provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
- a. The Petitioner contended that the subject property was not a buildable lot due to the fact that the lot is only 23 feet wide and has an easement that is nearly half the width of the lot. The Respondent’s copy of the Form 139L includes a copy of the easement agreement. *Galovic testimony and Respondent Exhibits 1 and 2*.
  - b. The subject lot is actually 21 feet wide with an effective depth of 91 feet. *Respondent Exhibit 2*. The utility easement is on the west 10 feet of the lot, reducing the usable portion of the property to 11 feet by 91 feet. The subject parcel alone is not buildable; however, it is contiguous with 7100 Catherine. The Petitioner testified that he bought the parcels together and presumably that is the way they would be sold, as one economic unit.
  - c. The Petitioner claimed the assessed value of the lot should be near zero, but did not support that contention with probative evidence.
  - d. The Respondent did not rebut either of the reasons presented by the Petitioner for showing that the lot is not a buildable residential lot, but the Respondent did submit two documents that indicate the Petitioner may have been compensated for the easement. *Respondent Exhibit 1*.

### **Conclusions**

16. The Petitioner failed to establish a prima facie case. The Board finds for 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>.**