

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-026-02-1-5-00826  
**Petitioners:** Charles C. & Robin C. Sizemore  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 007-16-27-0607-0002  
**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 (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$238,700 and notified the Petitioner on March 31, 2004.
2. The Petitioners filed a Form 139L on April 28, 2004.<sup>1</sup>
3. The Board issued a notice of hearing to the parties dated September 14, 2004.
4. A hearing was held on October 14, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is located at: 2822 99th Street, Highland, North Township.
6. The subject property is a single-family residence.
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 \$25,100 Improvements \$213,600 Total \$238,700

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<sup>1</sup> The Petitioners testified that they scheduled an informal hearing, but that they were unable to participate because they had the flu. *R. Sizemore testimony*. The Respondent subsequently issued a Notice of Final Determination from which the Petitioners timely appealed. *Board Exhibit A*. The Respondent did not interpose an objection at the hearing concerning any failure by the Petitioners to participate in an informal hearing. Based on the circumstances of this case, the Board finds that the Petitioners substantially complied with the statutory requirements for prosecuting an appeal to the Board. See Ind. Code §§ 6-1.1-4-33(d), 6-1.1-4-34.

9. Assessed Value requested by Petitioner:  
Land \$25,100 Improvements \$162,900 Total \$188,000
10. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing in addition to two observers from the public.
11. Persons sworn in at hearing:  
For Petitioners: Charles & Robin Sizemore, Owners  
For Respondent: David Depp, Representing the DLGF

### **Issues**

12. Summary of the Petitioners' contentions in support of an alleged error in the assessment:
  - a. The Petitioners contend the subject property is over-assessed and submitted two appraisals prepared in 2002 to prove that its market value is \$188,000. *Petitioners Exhibits 2-3.*
  - b. The Petitioners contend that the basement is unfinished, which lowers market value of the subject property. *Sizemore testimony.*
13. Summary of the Respondent's contentions in support of the assessment:

After listening to the Petitioners' testimony and reviewing the evidence, the Respondent determined that the two appraisals submitted by the Petitioners were valid and that the assessment should be changed. *Depp testimony.* The Respondent stated that it would stipulate to the appraised value of \$188,000. *Depp testimony.*

### **Record**

14. 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. #339.
  - c. Exhibits:

Petitioners Exhibit 1: Form 139L Petition  
Petitioners Exhibit 2: Appraisal Dated 1/8/2002<sup>2</sup>  
Petitioners Exhibit 3: Appraisal Dated 11/26/2002

Board Exhibit A: Form 139 L  
Board Exhibit B: Notice of Hearing

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<sup>2</sup> The Petitioners listed eight (8) exhibits on the exhibit log, but only submitted three (3) exhibits.

Board Exhibit C: Sign in Sheet

- d. These Findings and Conclusions.

**Analysis**

15. The most applicable 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. Wash. 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. The Petitioners provided sufficient evidence to support the their contentions. This conclusion was arrived at because:
- a. The Petitioners refinanced the subject property twice in 2002 and had two appraisals performed. *R. Sizemore testimony*. The first appraisal is dated January 8, 2002 and provides an opinion of value of \$188,000 using both the cost and market approaches to value. *Petitioners Exhibit 2*.
  - b. The second appraisal is dated November 26, 2002 and again provides an opinion of value of \$188,000 using the sales comparison approach to value. *Petitioners Exhibit 3*.
  - c. After listening to the Petitioners’ testimony and reviewing the evidence, the Respondent agreed that the assessment should be lowered to the appraised value of \$188,000. *Depp Testimony*

**Conclusion**

17. The Petitioners made a prima facie case for a reduction in value. The Respondent agreed that the assessment was in error and that the subject property should be valued at \$188,000. The Board finds in favor of the Petitioners.

### **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.**