

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-001-02-1-4-00033  
**Petitioners:** Collis & Kathy Lynn Hooks  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 001-25-40-0033-0046  
**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 on February 9, 2004, at Crown Point, Indiana. The Department of Local Government Finance (the "DLGF") determined that the Petitioners' property tax assessment for the subject property was \$35,400 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L petition on April 14, 2004.
3. The Board issued a notice of hearing to the parties dated May 28, 2004.
4. A hearing was held on July 8, 2004, in Crown Point, Indiana, before Special Master Rick Barter.

### Facts

5. The subject property is located at 3200 Industrial Highway, in Gary, Indiana.
6. The subject property is a 1,692 square foot, brick commercial office building on an 18,687.24 square foot lot.
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 \$11,300                      Improvements \$24,100.
  - b) Assessed Value requested by Petitioners:  
Land \$11,300                      Improvements \$17,000.

8. Persons present at the hearing:

For Petitioners: Collis Hooks, Property Owner.

For Respondent: George L. Vales, Project Manager of Cole-Layer-Trumble Company, representing the DLGF.

9. Persons sworn in at hearing:

For Petitioners: Collis Hooks, Property Owner.

For Respondent: George L. Vales, Project Manager.

**Issue<sup>1</sup>**

10. Summary of Petitioners' contentions in support of alleged error in assessment:

- a) The assessed value of the subject building is overstated. Based on an independent appraisal and three (3) sales of comparable properties, the value for the subject building should be \$15,000 to \$17,000, rather than \$24,100.
- b) The photographs and repair estimates demonstrate the property is in need of several repairs, reducing the market value of the property.

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

- a) The Respondent did not question the accuracy of any of the Petitioners' testimony or exhibits.
- b) The Respondent presented no testimony or exhibits in support of the current assessed value of the improvements.

**Record**

12. 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 #320.
- c) Exhibits:
  - Petitioners Exhibit A, Tabs 1 through 13:
    - Tab 1 – A copy of the Form 139L petition.
    - Tab 2 – A copy of the date stamped Form 139L petition coversheet.
    - Tab 3 – A summary of the Petitioners' arguments.

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<sup>1</sup> The Petitioners raised the issue of land value on the Form 139L petition; however, because the parties previously entered into a stipulation agreement regarding this issue, the Board will not address land value in these findings.

- Tab 4 – A list detailing the relevance of the evidence presented.
- Tab 5 – A copy of the DLGF Notice of Final Assessment.
- Tab 6 – A copy of the original Notice of Assessment.
- Tab 7 – A copy of the property record card for the subject property.
- Tab 8 – Hughes Realty Appraisal Report dated February 6, 2004.
- Tab 9 – A data listing for three (3) properties offered as comparable properties.
- Tab 10 – A copy of a Plat of Survey for the subject property.
- Tab 11 – Copies of exterior photographs of the subject property.
- Tab 12 – An estimate for repairs to the subject building.
- Tab 13 – An estimate for roof repairs to the subject building.

The Respondent presented no exhibits.

- d) These Findings and Conclusions.

### **Analysis**

13. The most applicable governing cases are:
  - a) The Board will not change the determination of the DLGF 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 Board of Tax Commissioners*, 694 N.E. 2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Board of Tax Commissioners*, 689 N.E. 2d 765 (Ind. Tax Ct. 1997).
  - b) Once the petitioner has established a prima facie case, the burden shifts to the assessing official to rebut the petitioner’s evidence and support its assessment determination with substantial evidence. It is not enough to simply assert that the assessment is correct; the assessing official must offer an authoritative explanation of its decision in order to rebut the petitioner’s prima facie case. *Clark v. State Board of Tax Commissioners*, 694 N.E. 2d 1230, 1233 (Ind. Tax Ct. 1998); *Miller Structures, Inc. v. State Board of Tax Commissioners*, 748 N.E. 2d 943 (Ind. Tax Ct. 2001).
  
14. The Petitioners provided sufficient evidence to support the Petitioners’ contentions. This conclusion was arrived at because:
  - a) The fee appraisal estimates the value of the subject building is \$15,000 to \$17,000, demonstrating that the building is overvalued at \$24,100. (*Petitioners Exhibit A, Tab 8*). The comparable properties, carrying a square foot value between \$7.66 and \$14.27, give further indication that the subject building is overvalued at \$20.92 per square foot. (*Petitioners Exhibit A, Tab 9; Hooks testimony*). This evidence supports the Petitioners’ contention that the assessed value of the subject building should be \$17,000. (*Hooks testimony; Petitioners Exhibit A, Tab 1*).
  - b) The Petitioners’ evidence is sufficient to make a prima facie case of error.
  - c) The Respondent did not rebut any of the Petitioners’ evidence or provide any evidence to support the current assessment.

### **Conclusion**

15. The Petitioners established a prima facie case. The Respondent did not rebut the Petitioners' evidence. The Board finds in favor of Petitioners. The assessed value of the improvements should be \$17,000.

### **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.**