INDIANA BOARD OF TAX REVIEW

Final Determination
Findings and Conclusions
Lake County

Petition #:   **45-001-02-1-4-00919**
Petitioners: **Adam Arroyo & Tonia Carroll**
Respondent: **Department of Local Government Finance**
Parcel #:   **001-41-49-0221-0022**
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 Petitioners attended an informal hearing as described in Ind. Code § 6-1.1-4-33, in Lake County, Indiana. The Department of Local Government Finance (the DLGF) determined that the Petitioners property tax assessment for the subject property is $124,400 and notified the Petitioners on April 1, 2004.

2. The Petitioners filed a Form 139L on April 29, 2004.

3. The Board issued a notice of hearing to the parties dated March 7, 2005.

4. Special Master Ken Daly held the hearing on April 7, 2005, in Crown Point, Indiana.

Facts

5. The subject property is located at 7010 W. 25th Avenue, Gary, in Calumet Township.

6. The subject property consists of a single family residence and a commercial building located on .448 acres.

7. The Special Master did not conduct an on-site visit of the property.

8. The DLGF determined the assessed value of the subject property to be $49,300 for the land and $75,100 for the improvements, for a total assessed value of $124,400.

9. The Petitioners requested an assessment of $17,000 for the land and $75,100 for the improvements, for a total assessed value of $92,100.

10.   Tonia Carroll, one of the Petitioners, and Everett Davis, representing the DLGF, appeared at the hearing and were sworn as witnesses.

Issues

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

   a) The Petitioners contend that the land value for the subject property is too high. *Carroll testimony*. The Petitioner is not appealing the value placed on the improvements. *Id.*

   b) The Petitioners submitted an appraisal dated April 5, 2005, which estimated the market value of the land to be $17,000. *Petitioner Exhibit 1.*

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

   a) The Respondent submitted the subject's property record card (PRC), a photograph of the subject property, and the Commercial and Industrial Neighborhood Valuation Form. *Respondent Exhibits 1-3.*

   b) The Respondent testified that he did not see anything wrong with the appraisal. *Davis testimony.*

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 BTR #1488.

   c) Exhibits:

      Petitioner Exhibit 1: Appraisal dated April 5, 2005

      Respondent Exhibit 1: Subject's PRC
      Respondent Exhibit 2: Subject Photograph
      Respondent Exhibit 3: Incremental/Decremental Land Pricing in Lake County
      Respondent Exhibit 4: Commercial and Industrial, Neighborhood Valuation Form

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

   d) These Findings and Conclusions.

Analysis

14.   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 Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also*, *Clark v. State Board of Tax Commissioners*, 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 Township Assessor*, 802 N.E.2d 276 (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 Petitioners failed to provide sufficient evidence to establish a prima facie case for a reduction in the land value. The Board reached this decision for the following reasons:

a)   The Petitioners contend that the land value is too high. *Carroll testimony.* In support of this contention, the Petitioners submitted an appraisal on the land dated April 5, 2005, which determined the value of the land to be $17,000. *See Petitioner Exhibit 1.*

b)   Real property in Indiana is assessed on the basis of its "true tax value." *See* I.C. § 6-1.1-31-6(c). "True tax value" is defined as "[t]he 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 (MANUAL) at 12 (incorporated by reference at 50 IAC 2.3-1-2)). The market value-in-use of a property may be calculated through the use of several approaches, all of which have been used in the appraisal profession. *Id.* at 3; *Long v. Wayne Township Assessor,* 821 N.E.2d 466, 469 (Ind. Tax Ct. 2005). One such approach used in the appraisal profession is known as the "sales comparison approach." *Id.* The sales comparison approach "estimates the total value of the property directly by comparing it to similar, or comparable, properties that have sold in the market." *Id.*

c)   Regardless of the approach used to prove the market value-in-use of a property, Indiana's assessment regulations provide that for the 2002 general reassessment, a property's assessment must reflect its value as of January 1, 1999. *Long*, at 471; 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. *Id.*

d) Here, the Petitioners failed to show the relevance of the April 5, 2005, appraisal to the January 1, 1999, valuation date. The Petitioners did not relate the appraisal value back to January 1, 1999, pursuant to *Long*, nor were the sales comparables used in the appraisal trended back to 1999. Thus the Petitioners failed to raise a prima facie case based upon the requirements of *Long*.

e) Where the Petitioner has not supported his claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Industries v. Department of Local Government Finance,* 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Conclusion

16. The Petitioners 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 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/trialproc/index.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code.