

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00390
Petitioners: Ruben & Michelle Vargas
Respondent: Department of Local Government Finance
Parcel #: 001-15-26-0232-0002
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 (the "DLGF") determined that the Petitioner's property tax assessment for the subject property was \$115,000. The informal hearing as described in Ind. Code § 6-1.1-4-33 was waived because Petitioners did not receive notice of assessment.
2. The Petitioners filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated February 21, 2005.
4. Special Master Rick Barter held a hearing in Crown Point on March 23, 2005.

Facts

5. The subject property is located at 1110 N. Wheeler St., in Griffith.
6. The subject property is a single family, bi-level home located on a lot measuring 70 feet by 133 feet.
7. The Special Master did not conduct an on-site visit of the property
8. The assessed value of subject property as determined by the DLGF:
Land \$24,200 Improvements \$90,800 Total \$115,000.
9. The assessed value requested by Petitioner:
Land \$24,200 Improvements \$75,800 Total \$100,000.

10. The following persons were present and sworn in at hearing:
For Petitioners – Ruben Vargas, property owner,
For Respondent – Tommy Bennington, DLGF.

Issue

12. Summary of Petitioner’s contentions in support of an alleged error in the assessment:

- a) The 2002 assessed value of the subject property is over-stated because the adjusted base rate for the land rose from \$145 in 1999 to \$345 on the current assessment. *Vargas testimony.*

13. Summary of Respondent’s contentions in support of the assessment:

- a) The 2002 assessed value of the subject property is appropriate in consideration of the sales of comparable properties, including the sale of the subject property in July 1998 for \$115,000. *Bennington testimony; Respondent Exhibit 4.*

Record

14. 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 1264,
c) Exhibits:
Respondent Exhibit 1 – The subject property record card,
Respondent Exhibit 2 – A photograph of the subject property,
Respondent Exhibit 3 – A list of the top 20 comparable sales,
Respondent Exhibit 5 – The property record card and photograph for the 3
properties most comparable to the subject property,
Board Exhibit A – The Form 139L,
Board Exhibit B – The Notice of Hearing,
Board Exhibit C – The Sign in Sheet,
Board Exhibit D – A Request for Additional Evidence,
d) These Findings and Conclusions.

Analysis

15. The most applicable governing cases are:

- a) The Petitioner 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.
16. The Petitioner did not provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
- a) The Petitioners did not submit any evidence at the time of the hearing. The Petitioners sought and were granted permission to make a post-hearing submission of evidence supporting their position. The deadline for submission of evidence was set for March 31, 2005. *Board Exhibit D*. The Petitioners failed to submit any evidence either within the timeframe allowed or after the deadline.

Conclusion

17. The Petitioner failed to make a prima facie case. The Board finds in favor of 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: _____

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. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.