

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-01662
Petitioner: Canary Strong
Respondent: Department of Local Government Finance
Parcel #: 001254704280005
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 \$14,700.
2. The Petitioner filed a Form 139L on August 04, 2004.
3. The Board issued a notice of hearing to the parties dated October 14, 2005.
4. Special Master Joan Rennick held a hearing on November 16, 2005, in Crown Point, Indiana.

Facts

5. The subject property is located at 2233 McKinley Street, Gary. The location is in Calumet Township.
6. The subject property is a residential vacant lot
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: \$14,700.
9. Assessed value requested by Petitioner:
Land: \$2,000.

10. Persons sworn in as witnesses at the hearing:
Canary Strong, Taxpayer,
Herbert Strong III, Son of Taxpayer,
Sharon Elliott, DLGF.

Issues

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
 - a. The assessment is excessive because the lot is vacant. Sale prices of lots at 2149 McKinley Street and 2352-70 McKinley St are lower than the assessed value of the subject. *Board Exhibit A*.
 - b. The taxes are too high. *H. Strong testimony*.

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

The Respondent questioned whether the subject property could be sold for the assessed value. *Elliott 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 Lake County 1898,
 - c. Exhibits:
 - Petitioner Exhibit 1: Real Property Maintenance Information before reassessment for property located at 2355 Roosevelt St., Gary,
 - Petitioner Exhibit 2: Real Property Maintenance Information after reassessment For property located at 2355 Roosevelt St., Gary,

 - Respondent Exhibit 1: Subject property record card (PRC),
 - Respondent Exhibit 2: Plat/Aerial Map,

 - Board Exhibit A: Form 139 L,
 - 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. Petitioner contends the taxes are too high especially since reassessment.
 - b. A petitioner may offer evidence relevant to the fair market value-in-use of his or her property to rebut an assessment and to establish the actual true tax value of the property. This evidence includes, but is not limited to, actual construction costs, sales information regarding the subject or comparable properties, and appraisals prepared in accordance with generally recognized appraisal practices. *See*, 2002 REAL PROPERTY ASSESSMENT MANUAL at 5 (incorporated by reference at 50 IAC 2.3-1-2)
 - c. Petitioner presented into evidence the Real Property Maintenance data information for property located at 2355 Roosevelt Street, Gary, before and after reassessment, that shows the assessed value and the dollar amount of the taxes. *Petitioner Exhibits 1 and 2*. 2355 Roosevelt is not the property under appeal.
 - d. The fact that there is a difference in assessed value from the previous assessment is not an indication of error. In original tax appeals, each assessment and each tax year stands alone. *See Thousand Trails Inc. v. State Bd. of Tax Comm'rs*, 747 N.E.2d 1072, 1077 (Ind. Tax Ct. 2001). Thus, unless otherwise indicated, evidence submitted for one petition or tax year will not be used as evidence for a different petition or tax year. *Id.*

- e. The Petitioner failed to establish a prima facie case. Where the Petitioner has not supported the claim with probative evidence, the Respondent's duty to support the assessment with substantial evidence is not triggered. *Lacy Diversified Indus. V. Dep't of Gov't Fin.*, 799 N.E.2d 1215, 1221-1222 (Ind. Tax Ct. 2003).

Conclusion

- 16. The Petitioner failed to establish 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: **February 2, 2006**

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>.