

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-032-02-1-5-00045
Petitioner: Donald E. & Bonnie L. Cook
Respondent: Department of Local Government Finance
Parcel #: 009-20-13-0282-0003
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 November 13, 2003, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$188,800 and notified the Petitioner on March 26, 2004.
2. The Petitioner filed a Form 139L on April 12, 2004.
3. The Board issued a notice of hearing to the parties dated July 7, 2004.
4. Special Master Michael R. Schultz held the hearing in Crown Point on September 9, 2004.

Facts

5. The subject property is located at 865 Appletree Drive, Schererville in St. John Township.
6. The subject property is a two-story, single-family residential dwelling.
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 \$28,300 Improvements \$160,500 Total \$188,800.
9. Assessed Value requested by Petitioner:
Land \$28,300 Improvements \$137,204 Total \$165,504.

10. Persons sworn as witnesses at the hearing:
For Petitioner — Donald E. and Bonnie L. Cook, Owners,
For Respondent — Larry Vales, Senior Appraiser, Cole-Layer-Trumble.

Issue

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
The square footage of the subject dwelling is incorrect. The subject dwelling has 924 square feet on the first level, 924 square feet on the second level, an integral garage with 344 square feet and 276 square feet of finished attic above the garage area. *D. Cook testimony; Pet. Ex. 6.*
12. Summary of Respondent's contentions in support of the assessment:
The square footage recorded for the subject dwelling is incorrect. The Petitioner's measurements are correct. *Vales testimony; Resp. Ex. 1.*

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 Co.-417.
 - c) Exhibits:
 - Petitioner Exhibit 1: A copy of the Form 139L.
 - Petitioner Exhibit 2: A summary of the Petitioners' contentions.
 - Petitioner Exhibit 3: An outline of the Petitioners' evidence.
 - Petitioner Exhibit 4: The 1998 property record card for the subject property.
 - Petitioner Exhibit 5: The 2002 property record card for the subject property.
 - Petitioner Exhibit 6: A 1993 appraisal report.
 - Petitioner Exhibit 7: A 2000 appraisal report.
 - Petitioner Exhibit 8: A copy of the Notice of Assessment, Form 11.
 - Respondent Exhibit 1: A property record card for the subject property.
 - 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 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 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 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. *American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct.). 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 provided sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because the parties agreed that the square footage of the subject dwelling and garage area was incorrect as shown on the current property record card. The parties agreed that the square footage for the subject dwelling and garage area as presented by the Petitioner is correct. The parties agreed that the assessment would be based on 924 square feet on the first level and 924 square feet on the second level with 276 square feet of finished attic over 344 square feet of integral garage area. *D. Cook; Vales testimony; Pet. Ex. 6; Resp. Ex. 1.*

Conclusion

16. The Petitioners made a prima facie case. The Board finds in favor of the Petitioner.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to reflect the square footage areas as indicated above and agreed by the parties.

ISSUED: MARCH 8, 2005



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.