

INDIANA BOARD OF TAX REVIEW
Small Claims
Final Determination
Findings and Conclusions

Petition #: 49-801-02-1-5-06323
Petitioners: James W. and Susan R. Coogan
Respondent: Washington Township Assessor (Marion County)
Parcel #: 8017681
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 initiated an assessment appeal with the Marion County Property Tax Assessment Board of Appeals (“PTABOA”) by written document dated July 24, 2003.
2. The Petitioners received notice of the decision of the PTABOA on August 27, 2004.
3. The Petitioners filed an appeal to the Board by filing a Form 131 with the county assessor on September 14, 2004. The Petitioners elected to have this case heard in small claims.
4. The Board originally scheduled a hearing in this matter on August 17, 2005. On or about September 20, 2005, The Board entered an order of dismissal following the Petitioners’ failure to appear at that hearing. On or about September 24, 2005, the Petitioners filed their objection to the dismissal of the appeal, which the Board granted.
5. The Board issued a notice of hearing to the parties dated November 7, 2005.
6. The Board held an administrative hearing on December 14, 2005, before the duly appointed Administrative Law Judge Alyson Kunack.
7. Persons present and sworn in at hearing:
 - a) For Petitioners: Susan Coogan, Taxpayer
 - b) For Respondent: Chad Polak, Washington Township Assessor’s Office

Facts

8. The property is classified as residential, as is shown on the property record card for parcel #8017681.
9. The Administrative Law Judge (“ALJ”) did not conduct an inspection of the property.
10. Assessed value of subject property as determined by the Marion County PTABOA:

Land \$44,500	Improvements \$151,600	Total \$196,100
---------------	------------------------	-----------------
11. Assessed value requested by the Petitioners on the Form 131 petition:
The Petitioners wrote “not sure” on the Form 131 petition.

Issues

12. Summary of Petitioners’ contentions in support of alleged error in assessment:
 - a) The Petitioners have owned the subject property for 20 years. The subject home is a one-and-a-half-story home with approximately 1,700 square feet and a small yard. The subject home is approximately 80 years old. *Coogan testimony.*
 - b) The taxes and assessment on the subject property are unfair. The Petitioners’ taxes increased from \$1,600 to \$4,500 per year following the reassessment. Due to the increase in taxes, the Petitioners’ mortgage payment has increased by \$400 per month. The tax increase should have been gradual. *Coogan testimony.*
 - c) The neighborhood factor of 1.90 applied to the subject property is too high. The neighborhood factor of 1.90 is the same as the neighborhood factor applied to larger homes with more land. *Coogan testimony.*
 - d) The Petitioners believe their tax rate is higher than others in their neighborhood. A big two-story home across the street with an acre of land pays less taxes. *Coogan testimony.*
 - e) Market data is no longer applicable due to the large tax increase. The reassessment has caused homes to become devalued. Homes in the subject neighborhood previously sold very quickly, but they now take years to sell. The neighborhood is changing; people are selling their homes because they are unable to pay the taxes. The Petitioners probably will have to sell their home. *Coogan testimony.*
 - f) Ms. Coogan stated that 43% of taxes go to fund public schools, which she believes to be a “grossly unfair” method of funding schools. *Coogan testimony.*
 - g) Ms. Coogan quoted Dan Powers stating “No Indiana resident should ever be in jeopardy of losing their home because of a gross lack of due diligence and planning

over taxes.” Ms. Coogan also indicated that a court had stated that “a fair and equitable determination should be used in assessing these homes.” *Coogan testimony*. Ms. Coogan does not believe that homes were valued fairly and equitably. *Coogan testimony*.

h) Several times during the hearing, Ms. Coogan stated that she was requesting the Board to lower the Petitioners’ taxes. *Coogan testimony*.

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

a) The subject property is located in taxing district 801, which is the old city limits. The tax rate is the same for all properties located in taxing district 801. The property across the street from the subject property should have the same tax rate unless it is in a different taxing district. *Polak testimony*.

b) The Respondent questioned whether the Petitioners had applied for all available exemptions. *Polak testimony*.

c) The neighborhood factor is designed to bring properties up to market value. The subject property is located in a small neighborhood consisting of approximately 12 properties. Given the small size, there was only one sale from which to determine the neighborhood factor. Typically, neighborhood factors are determined from at least three or four sales. *Polak testimony*.

d) The Petitioners supplied the Respondent with an appraisal estimating the market value of the subject property to be \$155,000 as of September 24, 1993. That appraisal, however, is so too far out of date to be reliable. *Polak testimony*.

Record

14. The official record for this matter is made up of the following:

a) The Petition

b) The recording of the hearing

c) Exhibits:

The Petitioners presented no exhibits

Respondent Exhibit 1: Property Record Card (PRC) for the subject property

Respondent Exhibit 2: None submitted

Respondent Exhibit 3: Appraisal report of the subject property as of September 24, 1993

Respondent Exhibit 4: Neighborhood sales data

Board Exhibit A: Form 131 Petition
Board Exhibit B: Notice of Hearing
Board Exhibit C: Sign In Sheet

d) These Findings and Conclusions

Analysis

15. 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.
16. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) The Petitioners contend the neighborhood factor of 1.90 applied to the subject property is too high.
 - b) The 2002 general reassessment was performed in accordance with a system of mass appraisal governed by the Real Property Assessment Guidelines for 2002 – Version A (“Guidelines”). Pursuant to the Guidelines, all property within a township must be established as part of neighborhood. REAL PROPERTY ASSESSMENT GUIDELINES FOR 2002 – VERSION A, ch. 2 at 8 (incorporated by reference at 50 IAC 2.3-1-2). Township assessors are required to define neighborhoods according to various factors, including, among other things: distinctive geographic boundaries, any manmade improvements that significantly disrupt the cohesion of adjacent properties, and sales statistics. *Id*.
 - c) Assessors are further required to account for the impact on the value of improvements caused by the physical, economic, governmental and social characteristics of a neighborhood. *See GUIDELINES*, Appendix B at 8-9. To do so, Assessors are directed

to examine property sales within the neighborhood between January 1, 1998 and December 31, 1999 and to determine the portion of each sale price attributable to improvements. *Id.* The assessors then directed to divide that amount by the depreciated replacement cost new of the improvements to arrive at a neighborhood factor. *Id.* The GUIDELINES require assessors to multiply the depreciated replacement cost new of improvements by the neighborhood factor determined by the process described above to arrive at the true tax value of the improvements being assessed.

- d) The Petitioners did not provide any evidence to support their claim that the neighborhood factor applied to the subject property is excessive. The Petitioners did not show that the Respondent erred in drawing neighborhood boundaries or in computing the neighborhood factor based upon sales of property within the neighborhood. The Petitioners likewise failed to present any market-based evidence, such as an appraisal estimating the market value of the subject property as of January 1, 1999, to demonstrate that the current assessment is incorrect. Consequently, the Petitioners failed to present a prima facie that the Respondent applied an incorrect neighborhood factor to the subject property.
- e) At the hearing, Ms. Coogan made several related arguments concerning the validity of the tax rate applied to the subject property. Pursuant to Ind. Code § 6-1.5-4-1, the Board conducts an impartial review of all appeals concerning the assessed value of tangible property; property tax deductions; and property tax exemptions. Thus, the Board may consider any claims that the Respondent erred in assessing the subject property. The tax rate applied to that assessment, however, is not properly before the Board.
- f) Based on the foregoing, the Petitioners failed to establish a prima facie case of error.

Conclusion

- 17. The Petitioners 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>.