

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-00012
Petitioner: Alberta Staton
Respondent: Department of Local Government Finance
Parcel #: 007-26-36-0420-0024
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. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$131,700 and notified the Petitioner.
2. The Petitioner filed a Form 139L on April 14, 2004.
3. The Board issued a notice of hearing to the parties dated June 1, 2004.
4. A hearing was held on July 9, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is located at 6944 Olcott Avenue, Hammond, Indiana.
6. The subject property is a single-family one-story brick dwelling. The house has three bedrooms, one bath, and a detached garage, as shown on Respondent's Exhibit 2.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed Value of subject property as determined by the DLGF:
Land \$29,100 Improvements \$102,600 Total \$131,700.
9. Assessed Value requested by Petitioner:
Land \$29,100 Improvements \$94,600 Total \$123,700.

10. The following persons were present and sworn in at the hearing:
For Petitioner: Alberta Staton
For Respondent: Larry Vales, Cole-Layer-Trumble Appraiser
Sharon Elliott, Cole-Layer-Trumble Appraiser

Issue

11. Summary of Petitioner's contentions in support of alleged error in assessment:
- a) The Petitioner stated on the Form 139L that she had copies of neighborhood sales from a realtor that indicated a lower assessed value was appropriate. She also stated on the appeal form that a neighbor's home is in disrepair and the other neighbor is a rental property. In addition, she wrote that her home would be worth more if it were located across the street as her current situs has a business alley in her backyard. (Staton testimony; Petitioner's Exhibit 1.)
 - b) At the hearing, the Petitioner testified she had not obtained the services of a realtor. Copies of the Petitioner's property record card and property record cards from the properties located on either side of the subject property are attached to the Form 139L. No additional exhibits were presented.
12. Summary of Respondent's contentions in support of assessment:
- a) Respondent presented a list of twenty properties that it identified as comparable and provided details on three properties of similar age and utility to support the value as assessed. (Vales testimony; Respondent's Exhibit 4.)
 - b) Respondent contends the property is assessed in line with other properties in the area and that the Petitioner's evidence did not prove to the contrary. (Vales testimony.)
 - c) Respondent contends that no change in the assessment is warranted. (Vales testimony.)

Record

13. The official record for this matter is made up of the following:
- a) The Petition and all subsequent pre-hearing submissions by either party.
 - b) The tape recording of the hearing labeled Lake Co. #249.
 - c) Exhibits:
 - Petitioner Exhibit 1: Form 139L with attached property record cards for 6940 Olcott, 6944 Olcott and 6948 Olcott.
 - Respondent Exhibit 1: Form 139L Petition.
 - Respondent Exhibit 2: Subject property record card.
 - Respondent Exhibit 3: Photograph of subject property.
 - Respondent Exhibit 4: Comparable Properties Summary with attached list of top 20 comparables and statistics.
 - Respondent Exhibit 5: Comparable property record for Parcel 7-26-34-333-21.
 - Respondent Exhibit 6: Comparable photograph Parcel 7-26-34-333-21.
 - Respondent Exhibit 7: Comparable property record for Parcel 7-26-34-333-15.
 - Respondent Exhibit 8: Comparable photograph for Parcel 7-26-34-333-15.
 - d) These Findings and Conclusions.

Analysis

14. 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).
15. 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”).
16. 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.
17. The Petitioner did not provide sufficient evidence to support the Petitioner’s contentions. This conclusion was arrived at because:
 - a) The Petitioner did not present any evidence at the hearing to support the statement on the Form 139L that she had copies of neighborhood sales from a realtor indicating lower values.
 - b) The Petitioner attached two property record cards for neighboring properties, but provided no analysis of how the assessed values for those properties might demonstrate that the assessed value on her house is too high. Those cards indicate the following information:
 - 6940 Olcott: 940 square feet, framed or aluminum sided ranch on .158 acres; 2 bedroom/1 bath; Grade C-1; Assessed Value is \$107,900.
 - 6948 Olcott: 1,202 square feet, frame w/masonry ranch on .208 acres; 3 bedroom/1 bath; Grade C; Assessed Value is \$127,000.
 - c) The property record card for subject property indicates the following:
 - 6944 Olcott: 1,190 square feet, brick ranch on .167 acres; 3 bedroom/1 bath; Grade C; Assessed Value is \$131,700.
 - d) The Petitioner appears to merely rely on the fact that the assessed values for the two neighboring properties are less than hers. They did not prove her case.
 - e) The Petitioner testified that the neighborhood was not as good as it had been in the past and that the interior of her home needed updating because nothing had been done inside since the house was built in 1951. The Petitioner opined that she would not be able to sell the property for its current assessed value and a reduction of the assessment was required. But such conclusions alone are not a sufficient basis to lower an assessment.“ *Sterling Mgmt. v. State Bd. of Tax Comm'rs*, 730 N.E.2d 828, 838 (Ind. Tax Ct. 2000) (taxpayer's conclusory statements do not constitute probative evidence).

- f) Without further clarification as to why the subject property is deficient as compared to the purported comparable properties, a prima facie case is not made. Therefore, the burden of proof does not shift to the Respondent.

Conclusion

18. The Petitioner failed to make a prima facie case. Therefore, it is not necessary for the Board to address the evidence or argument Respondent offered in favor of the assessment.
19. The Board finds in favor of the Respondent and sustains the total assessed value of \$131,700.

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.