

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-026-02-1-5-00550
Petitioner: Bernard F. Taillon, Jr.
Respondent: Department of Local Government Finance
Parcel #: 007-26-32-0214-0008
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 December 5, 2004. The Department of Local Government Finance (the "DLGF") determined that the assessment for the subject property was \$138,200 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 20, 2004.
3. The Board issued a notice of hearing to the parties dated September 24, 2004.
4. Special Master S. Sue Mayes held the hearing in Crown Point on November 3, 2004.

Facts

5. The subject property is located at 6731 Nevada Avenue, Hammond. This location is in North Township.
6. The subject property is a parcel of land and a dwelling.
7. The Special Master did not conduct an on-site inspection of the property.
8. Assessed value of the subject property as determined by the DLGF:
Land \$25,100 Improvements \$113,100 Total \$138,200.
9. Assessed value requested by Petitioner:
Land \$25,100 Improvements \$109,800 Total \$134,900.

10. Persons sworn as witnesses at the hearing:
For Petitioner — Bernard F. Taillon, Jr., Owner,
For Respondent — Stephen H. Yohler, Hearing Officer, DLGF.

Issue

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
 - a. The subject house is assessed too high due to erroneous measurements. *Petitioner Exhibits 2, 4, 9; Taillon testimony.*
 - b. The living area is overstated by 101 square feet. *Id.*
 - c. The adjustment proposed by the Respondent would result in a fair assessment. *Taillon testimony.*
12. Summary of Respondent's contentions in support of the assessment:
 - a. The measurements are outside measurements. *Yohler testimony.*
 - b. Comparable sales in the same neighborhood show an average selling price of \$46.17 per square foot. The subject is assessed at \$59 per square foot. The Respondent recommended that the assessment on the subject house be changed to reflect the average value of \$46.17 per square foot. *Id.*
 - c. The average of \$46.17 times the 2,316 square foot area (using outside measurements) reduces the value of the subject home to \$81,600 from \$113,100. The value of the land remains the same. The total assessment would be adjusted from \$138,200 to \$106,700. *Respondent Exhibits 2, 4; Yohler 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 Co. 455,
 - c. Petitioner Exhibit 1: Form 139L Petition,
Petitioner Exhibit 2: Drawing of the property,
Petitioner Exhibit 3: Notice of Final Assessment,
Petitioner Exhibit 4: 2002 property record card ("PRC") for the subject property,
Petitioner Exhibit 5: 2002 PRC for subject property with writing on it,
Petitioner Exhibit 6: 1998 PRC for subject property,
Petitioner Exhibit 7: Notice of Assessment Form 11/Lake County,
Petitioner Exhibit 8: Notice of Hearing,

Petitioner Exhibit 9: 1966 Blueprints- original,¹
Petitioner Exhibit 10: Questions and Statement,
Respondent Exhibit 1: Form 139L,
Respondent Exhibit 2: Subject PRC,
Respondent Exhibit 3: Photograph of the subject property,
Respondent Exhibit 4: Comparable sales sheet,
Respondent Exhibit 5: PRCs and photographs for three comparable properties,
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 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 and Respondent each testified that the current value of the subject property is overstated:
- a. The Respondent testified that comparable sales in the neighborhood showed an average selling price of \$46.17 per square foot while the subject is assessed at \$59 per square foot.
 - b. The Respondent proposed to change the assessment on the subject house to reflect the average value of \$46.17 per square foot. The average of \$46.17 times the 2,316 square foot area (using outside measurements) reduces the value of the subject home to \$81,600 from \$113,100. The value of the land remains the same.

¹ This evidence was presented for viewing at the hearing, but not retained.

The total assessment would therefore be adjusted from \$138,200 to \$106,700.
Respondent Exhibits 2, 4; Yohler testimony.

- c. The Petitioner indicated this adjustment would result in what he considered to be a fair assessment. *Taillon testimony.*

Conclusion

16. Based on this undisputed testimony, the Board concludes the total assessed value should be \$106,700.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should 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.