

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-016-02-1-5-00007
Petitioners: Billy R. & Rebekah Stewart
Respondent: Department of Local Government Finance
Parcel #: 006-14-20-0020-0010
Assessment Year: 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter. It finds and concludes as follows:

Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held on March 3, 2004, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$72,900 and notified the Petitioners on March 26, 2004.
2. The Petitioners 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 Michael R. Schultz.

Facts

5. The subject property is located at 2275 Randolph Street, Lake Station in Hobart Township.
6. The subject property is a 0.116 acre parcel improved with a single family, one story, two bedroom, frame 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: \$11,000 Improvements: \$61,900 Total: \$72,900.

9. Assessed Value requested by Petitioners:
Land: not specified Improvements: not specified Total: \$65,000.

10. The following persons were present at the hearing:

For Petitioners: Billy R. Stewart, property owner

For Respondent: Cathi Gould, Cole-Layer-Trumble

11. Persons sworn in at hearing:

For Petitioners: Billy R. Stewart

For Respondent: Cathi Gould

Issue

12. Summary of Petitioners' contentions in support of alleged error in assessment:

a) The current assessed value is higher than market value for this property. *Stewart testimony.*

b) The subject lot is on a dead end street. *Stewart testimony.*

c) Trash trucks are not able to negotiate the alley behind the property. Therefore, trash must be left out in front for pickup. *Stewart testimony.*

d) The subject property is next to a railroad. *Stewart testimony.*

e) The house was not built in 1957, but it was only moved to the present location at that time. The house was built in 1953. *Stewart testimony.*

f) The Petitioners estimate an "asking price" would be \$65,000. *Stewart testimony.*

g) The two page Valuation Exterior Report has an estimated market value of \$57,000. *Petitioner Exhibit 1.*

13. Summary of Respondent's contentions in support of assessment:

a) The value of the subject property fell within the range of comparables presented. *Gould testimony.*

b) The subject's assessed value is \$45 per square foot. The neighborhood average is \$40 to \$46 per square foot. *Gould testimony & Respondent Exhibit 4.*

c) The subject's Alternative Valuation Exterior Report shows that neighborhood prices range from \$50,000 to \$90,000 and the Petitioners' value falls well within that range. *Respondent Exhibit 6.*

Record

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

a) The Petition and all subsequent submissions by either party.

b) The tape recording of the hearing labeled Lake County #220.

c) Exhibits:

Petitioners Exhibit 1: Alternative Valuation Exterior Report. (Mr. Stewart stated he had turned more evidence into the local assessor's office when he filed his

139L. Nevertheless, he did not file any other exhibits for the Board to consider in this matter.)

Respondent Exhibit 1: 139L Petition.

Respondent Exhibit 2: Subject Property Record Card.

Respondent Exhibit 3: Photo of subject property.

Respondent Exhibit 4: Comparable property record cards and photos.

Respondent Exhibit 5: Map of subject lot.

Respondent Exhibit 6: Alternative Valuation Exterior Report with attached memo from Cathi Gould dated July 22, 2004.

d) These Findings and Conclusions.

Analysis

15. The most applicable governing cases:
 - a. A Petitioner seeking review of a determination of the DLGF 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 Board of Tax Commissioners*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Board of Tax Commissioners*, 689 N.E. 2d 765 (Ind. Tax Ct. 1997).
 - 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 the contention that the assessment should be lower than \$72,900. This conclusion was arrived at because:
 - a) The Alternative Valuation Exterior Report offered by Petitioners as Exhibit 1 is not an appraisal. The document does not disclose who prepared it. There is no indication that it was prepared by a qualified appraiser using professional standards. It appears that the document was prepared in conjunction with obtaining a home equity loan. It purports to establish an estimated market value based upon one comparable sale. There is, however, a dearth of information about either the subject or the comparable property upon which any kind of valid comparison might be made. Furthermore, there is no way to determine whether or not this report includes the vacant lot. If the report does include it, there is no indication about what the value of that lot might be. The testimony of Mr. Stewart did nothing to resolve these problems. Therefore, this report does not constitute probative evidence in support of the claim that the assessment is too high or what the fair market value of this property is.

- b) Even though the Valuation Exterior Report may not be accurate or reliable evidence, it supports the Respondent's case that the value of the Petitioners' property falls well within the range the report gives for the neighborhood, which is \$50,000 to \$90,000. *Respondent Exhibit 6.*
- c) Mr. Stewart opined that the property was overvalued because it was on a dead end street and next to a railroad, but he did not offer any probative evidence to establish what impact those facts might have on value. Similarly, he opined that because trash trucks could not negotiate the alley behind his property and he had to put trash out front for pickup there was negative impact on value, but he offered no probative evidence about what that might be. Such conclusions are not 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).
- d) Mr. Stewart's estimate that he would ask \$65,000 for the property by itself also does not constitute probative evidence of market value. *Id.*
- e) Finally, even though Mr. Stewart testified that the house was actually built in 1953 and moved to its present location in 1957, he failed to establish what that difference might have on market value. In failing to quantify what impact the difference in year of construction might have on market value, Petitioners have not met the standard of proof required by *Meridian Towers*.
- f) Petitioners did not offer any probative evidence that the assessed value should be changed. Therefore, the burden of going forward with evidence in support of the current assessment never shifted to Respondent. *Champlin Realty Co. v. State Bd. of Tax Comm'rs*, 745 N.E.2d 928, 932 (Ind. Tax Ct. 2001).

Conclusion

- 17. The Petitioners failed to establish a prima facie case. The evidence that was presented did not support the Petitioners' claim. The Board finds in favor of Respondent.

Final Determination

The Petitioners failed in their burden to submit probative evidence to show that the Department of Local Government Finance erred in its assessment of the subject property. 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.