

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petitions #: 45-016-02-1-5-00191
45-016-02-1-5-00192
Petitioners: Billy J & Georgia I Rosser
Respondent: Department of Local Government Finance
Parcels #: 006-14-19-0108-0023
006-14-19-0108-0024
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. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held on January 28, 2004. The Department of Local Government Finance (the "DLGF") determined that the tax assessment for the subject property is \$75,400 for parcel 006-14-19-0108-0023, and \$9,300 for parcel 006-14-19-0108-0024. The DLGF notified the Petitioners on March 26, 2004.
2. The Petitioners filed a Form 139L on April 26, 2004.
3. The Board issued a notice of hearing to the parties dated October 22, 2004.
4. Special Master Patti Kindler held the hearing in Crown Point on November 30, 2004.

Facts

5. The subject property is located at 2395 Vermillion Street, Lake Station.
6. The subject properties consist of a 1,062 square foot ranch style home located on 2 lots measuring 37.5 feet by 124 feet for parcel 006-14-19-0108-0023 and 37.5 feet by 124 feet for parcel 006-14-19-0108-0024.
7. The Special Master did not conduct an on-site visit of the property.

8. The assessed value of subject properties as determined by the DLGF:

Parcel 006-14-19-0108-0023	Land \$9,300	Improvements \$66,100	Total \$75,400,
Parcel 006-14-19-0108-0024	Land \$9,300	Improvements -0-	Total \$9,300.

9. The assessed value requested by Petitioners:

Parcel 006-14-19-0108-0023	Land \$6,300	Improvements \$65,700	Total \$72,000,
Parcel 006-14-19-0108-0024	Land \$6,300	Improvements -0-	Total \$6,300.

10. Persons present and sworn as witnesses at the hearing:
 - For Petitioners – Billy J. and Georgia I. Rosser,
 - For Respondent – Tommy P. Bennington.

Issue

10. Summary of Petitioners’ contentions in support of an alleged error in the assessment:
 - a) The current assessment for the subject properties combined is \$84,700. A combined assessed value of \$84,700 is excessive. In 2000, an offer of \$65,000 was made and accepted for the subject properties, but the sale was not completed because the potential buyer was unable to secure a mortgage. Because the subject house is situated on both lots, the lots cannot be sold separately. *B. Rosser testimony.*

 - b) The fireplace has not been used for 4 years. The cost to replace the damper would be approximately \$250 to \$275. The cost to replace the liner would be approximately \$300 to \$2,000. *B. Rosser testimony; Petitioner Exhibit 7.*

 - c) The local building ordinances require an update to the subject home’s electrical service if the house is sold or refinanced. The current fuse system would have to be replaced with a circuit breaker system. The electrical update would cost approximately \$2,200. *B. Rosser testimony; Petitioner Exhibit 6.*

 - d) The subject properties are not located in a desirable neighborhood. There is a house boarded up within a block of the subject properties, vehicle windows have been shot out, bicycles have been stolen, noise and traffic is a problem, and police calls in the neighborhood have been numerous. *B. Rosser testimony; Petitioner Exhibit 1.*

 - e) The purchase agreement for the subject properties indicates the parties agreed on a purchase price of \$75,000. The purchase price of \$75,000 included an agreement to repair the fireplace and to update the electrical service at the Petitioners’ expense. *B. Rosser testimony; Petitioner Exhibit 6.*

 - f) The listing input sheet prepared by Gender Realty estimates the value of the subject property at \$77,000. The market analysis from Century 21 estimates the value of the subject property at \$68,000 to \$72,000. The market-listing estimates completed in November of 2004 suggest an average value of \$74,500, which would be a fair value for the subject property. In 1999, the subject property was only worth \$65,000, which

was the accepted purchase price at that time. *B. Rosser testimony; Petitioner Exhibit 8, 9.*

11. Summary of Respondent's contentions in support of the assessment:
- a) A comparable grid was developed for the subject property and 3 comparable ranch-type properties with the same neighborhood code. *Bennington testimony; Respondent Exhibit 4.*
 - b) The time adjusted sale prices for the 3 comparable properties are \$57,478, \$58,843, and \$65,726. *Respondent Exhibit 4.*
 - c) The comparable properties may be somewhat different than the subject property. *Bennington testimony.*

Record

12. The official record for this matter is made up of the following:
- a) The Petition,
 - b) The tape recording of the hearing labeled Lake County 840,
 - c) Exhibits:
 - Petitioner Exhibit 1: A summary describing the factors affecting the general location of the subject property,
 - Petitioner Exhibit 2: A photograph and assessment data for the property located at 2345 Vermillion Street,
 - Petitioner Exhibit 3: Comparable newspaper home sale listings,
 - Petitioner Exhibit 4: The reassessment data for the subject property,
 - Petitioner Exhibit 5: Copies of the Form petitions,
 - Petitioner Exhibit 6: Agreement prepared for the sale of the subject property,
 - Petitioner Exhibit 7: A quote for the fireplace repair,
 - Petitioner Exhibit 8: GNIAR-MLS Residential Listing Input Sheet for the subject property,
 - Petitioner Exhibit 9: A Comparative Market Analysis prepared by Century 21 for the subject property,
 - Respondent Exhibit 1: Form 139L petitions,
 - Respondent Exhibit 2: Subject property record card,
 - Respondent Exhibit 3: A photograph of the subject property,
 - Respondent Exhibit 4: Property record cards and photographs of 3 comparables,
 - Board Exhibit A: The Form 139L,
 - Board Exhibit B: The Notice of Hearing,
 - Board Exhibit C: The Sign in Sheet,
 - d) These Findings and Conclusions.

Analysis

13. 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.
14. The Petitioners did not provide sufficient evidence to support their contentions. This conclusion was arrived at because:
- a) The purchase agreement, the listing input sheet, and the market analysis indicate that the subject properties' estimated market value is between \$68,000 and \$77,000. These documents reflect market activity in 2004. Petitioners did not present any evidence explaining how or why those 2004 values are relevant to the valuation date established for the 2002 Reassessment. As such, this evidence has no probative value. *Long v. Wayne Twp. Assessor*, 821 N.E.2d 466, 471 (Ind. Tax Ct. 2005).
 - b) The repair estimates and the negative factors of the neighborhood may have some effect on the value of the subject properties. Nevertheless, Petitioners did not offer any explanation of how or why the repairs or negative neighborhood factors caused the value of the subject properties to be something less than the current assessment. Petitioners simply pointed to what could be presumed to be negative influences and conclude the assessed value is excessive. Those conclusory statements do not constitute probative evidence. *Id.* at 470; *Whitley Prods. v. State Bd. of Tax Comm'rs*, 704 N.E.2d 1113, 1119 (Ind. Tax Ct. 1998).

Conclusion

15. The Petitioner has failed to make a prima facie case. The Board finds in favor of the 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.