

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-008-02-1-5-00010
Petitioner: Charles H. Reel
Respondent: Department of Local Government Finance
Parcel #: 002-02-03-0078-0053
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 December 10, 2003, in Lake County, Indiana. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$222,800 and notified the Petitioner on March 19, 2004.
2. The Petitioner filed a Form 139L on April 14, 2004.
3. The Board issued a notice of hearing to the parties dated May 28, 2004.
4. A hearing was held on July 8, 2004 in Crown Point, Indiana before Special Master Kathy J. Clark.

Facts

5. The subject property is located at 18466 Clark Road, Lowell in Cedar Creek Township.
6. The subject property is a three bedroom, two-story, single-family residence that sits on 1.22 acres.
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: \$41,000 Improvements: \$181,800 Total: \$222,800.

9. Assessed Value requested by Petitioner:
Land: 30,000 Improvements: \$145,000 Total: \$175,000.
10. The following persons were present at the hearing:
- For Petitioner: Charles H. Reel, property owner
For Respondent: Sharon Elliott, Staff Appraiser, Cole-Layer-Trumble

11. Persons sworn in at hearing:
- For Petitioner: Charles H. Reel
For Respondent: Sharon Elliott

Issue

12. Summary of Petitioner's contentions in support of alleged error in assessment:
- a) The subject does not have central air conditioning, only a window air conditioning unit. *Reel testimony.*
 - b) Because the County officials raised the height of the road ten inches in 1998, the topography of the subject is such that the property experiences a problem with standing water on the land near Clark Road. *Id.*
 - c) Petitioner does not agree that the design of the subject dwelling merits a C+1 grade. The subject needs a new roof, some new windows, new siding, and has no gutters. The home should be considered in below average condition. *Id.*
 - d) The subject is not in a pre-approved subdivision and there is no pre-approved water supply for fire protection. *Id.*
 - e) The home is insured for \$208,000 (not including contents), and has a \$171,000 replacement cost. *Id.*
 - f) An opinion of value from All Seasons Realty, dated March 9, 1994, shows a value of \$122,500. *Petitioner's Exhibit 4.*
 - g) An opinion of value from Langen Realty, dated April 13, 2004, shows a value of \$175,000 to \$180,000. *Petitioner's Exhibit 2.*
 - h) The subject property is currently for sale. The asking price is for the property is \$190,000. *Reel testimony.*
13. Summary of Respondent's contentions in support of assessment:
- a) Ms. Elliot did not inspect the subject property, and does not know if anyone involved in determining the assessment inspected the subject property. Therefore, Ms. Elliot could not respond to the Petitioner's testimony concerning air conditioning and topography. *Elliot testimony.*
 - b) A comparable sales analysis shows the market value of the subject property to be \$188,800. *Id; Respondent's Exhibit 4.*

Record

14. 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. #211.
 - c) Exhibits:
 - Petitioner Exhibit 1: Photographs of subject property.
 - Petitioner Exhibit 2: Opinion of value of Langen Realty, dated April 13, 2004.
 - Petitioner Exhibit 3: Outline of Petitioner's contentions.
 - Petitioner Exhibit 4: Opinion of value of All Seasons Realty, dated March 9, 1994.

 - Respondent Exhibit 1: 139L Petition.
 - Respondent Exhibit 2: Subject property record card.
 - Respondent Exhibit 3: Photograph of subject property.
 - Respondent Exhibit 4: Comparable sales analysis.
 - Respondent Exhibit 5: Property record card of comparable property.
 - Respondent Exhibit 6: Photograph of comparable property.
 - Respondent Exhibit 7: Property record card of comparable property.
 - Respondent Exhibit 8: Photograph of comparable property.
 - d) These Findings and Conclusions.

Analysis

15. The most applicable governing cases:
- a) The Petitioner must sufficiently explain the connection between the evidence and Petitioner's assertions in order for it to be considered material to the facts. *See generally, Heart City Chrysler v. State Bd. of Tax Comm'rs*, 714 N.E.2d 329, 333 (Ind. Tax Ct. 1999).
 - b) The Board will not change the determination of the DLGF unless the Petitioner has established a prima facie case and, by a preponderance of the evidence, proven both the alleged errors in the assessment and specifically what assessment is correct. *See Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998); *North Park Cinemas, Inc. v. State Bd. of Tax Comm'rs*, 689 N.E.2d 765 (Ind. Tax Ct. 1997).
16. The Petitioner provided sufficient evidence to support the Petitioner's contentions that the assessment should be lower than \$ 222,800. The evidence collectively shows that the assessment should be lowered to \$188,800. This conclusion was arrived at because:
- a) The Petitioner failed to establish a link between the testimony concerning the condition of his home and the topography of his land and a corresponding assessment adjustment. The Petitioner merely provided conclusory statements that the condition is below average. Furthermore, even if the condition of the property is as stated by

Petitioner, this does not in itself show that the assessment is not a reasonable measure of true tax value. 50 IAC 2.3-1-1(d).

- b) The two appraisals submitted by the Petitioner show appraisal dates of 1994 and 2004. The appraisal date of the 2002 general reassessment is January 1, 1999. 2002 REAL PROPERTY ASSESSMENT MANUAL at 8. The opinion of value dated 1994 cannot be considered reliable evidence since it is dated five years before the valuation date used in determining the assessment. The 2004 opinion of value, offering a range of \$175,000 to \$180,000, is given slightly more weight. It is noted that the 2004 opinion of value is substantially lower than the assessment under appeal.
- c) The Petitioner testified the property is currently listed for sale at \$190,000.
- d) The Respondent testified that it's revised market data analysis shows the value of the property to be \$188,800.
- e) In view of the 2004 appraisal, the Petitioner's current asking price, and revised DLGF calculations, the Board determines the value of the property to be as follows:
Land: \$41,000 Improvements: \$147,800 Total: \$188,800.

Conclusion

- 17. The Petitioner provided sufficient evidence to support the Petitioner's contentions that the assessment should be lower than \$ 222,800. The evidence collectively shows that the assessment should be lowered to \$188,800. The Board finds that the total assessed value of the subject property should be \$188,800.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to \$188,800.

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.